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Acts of the
Governor General
of India in
council with an
index

Year: 1847

Sub: Law and
Legislation/Acts

Acts of the
Governor General

Place: India

# ACT No. I. OF 1847.

***Passed by the Hon'ble the President of the Council of India in Council on the 30th of January 1847, with the assent of the Right Hon'ble the Governor General of India.***

*An Act for the establishment and maintenance of Boundary Marks in the North Western Provinces of Bengal.*

WHEREAS it is desirable with a view to the better definition and security of landed property, the prevention of encroachments and disputes, and the identification of lands assessed to, or exempted from, the Public Revenue, that provision should be made for the establishment and maintenance of permanent marks to distinguish the boundaries of Fields or Estates:

I. It is hereby enacted, that it shall be lawful within the Territories subject to the Government of the North Western Provinces of Bengal, for Collectors of Land Revenue, or persons exercising the powers of Collector, or such Revenue Officers as the Lieutenant Governor may entrust with that authority, to fix the boundaries of Fields or Estates, and to require that marks be formed and maintained by the owners or occupants on the boundaries, of such materials and in such number and manner as may appear to such Officers sufficient for distinguishing

distinguishing the limits of those Fields or Estates whenever they may be of opinion that such demarcation is necessary for the prevention or adjustment of disputes.

II. And it is hereby enacted, that notices shall be served on the persons owning or occupying the conterminous Fields or Estates requiring them to form or repair the said boundary marks within ten days from the date of the notice, and in the event of these persons not being found in the Village that the said requisition shall be posted at the Village Chowree or Chopal, or other conspicuous place in the Village, which shall be held to be a sufficient service, notwithstanding it may afterwards appear that the owners or occupants were not correctly named or designated in the notice.

III. And it is hereby enacted, that in default of the owners or occupants of the Fields or Estates complying with the requisition, the said Revenue Officers shall give directions for the erection and repair of such boundary marks, the cost of which shall be equitably apportioned on the Fields or Estates which they serve to distinguish, and shall be charged to the persons possessing a right of ownership or occupancy in such Fields or Estates, and shall be realized in the same manner as arrears of land revenue.

IV. And it is hereby enacted, that any person who may be convicted of wilfully erasing, removing or injuring such boundary marks, shall be liable to a fine not exceeding Fifty Rupees for each mark so erased, removed or injured; one half of which fine may be awarded on conviction to the informer, and the other half shall be chargeable with the cost of restoring the mark; whenever it may not be possible to detect the person who erased, removed or injured the boundary marks as aforesaid, the marks shall be re-erected or repaired at the charge of

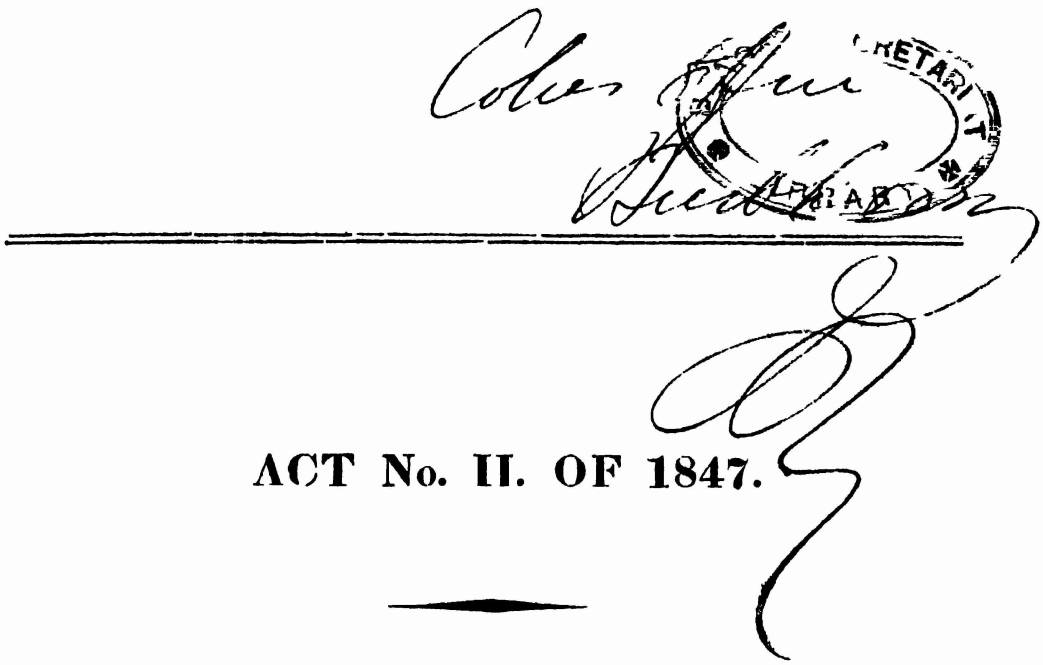
one

one or both parties, as the Collector or other Officer authorized to make the demarcation may consider just and equitable.

V. And it is hereby enacted, that disputed boundaries shall be fixed by Revenue Officers under the powers and in the manner prescribed in Regulations VII. 1822 and IX. of 1833, and shall be similarly open to appeal.

VI. And it is hereby enacted, that Magistrates are prohibited from taking cognizance under Act IV. of 1840 of boundary disputes of the nature for which provision is here made, but whenever they have reason to apprehend any breach of the peace in consequence of a disputed boundary, they shall certify the circumstances to the Collector of Land Revenue, who shall be bound immediately to mark off the boundary in the mode here indicated, and to uphold the possession of the parties according to the demarcation.

Calcutta, 1847.—Printed at the Bengal Military Orphan Press, by W. Ridsdale.



# ACT No. II. OF 1847.

***Passed by the Hon'ble the President of the Council of India in Council on the 13th of February 1847, with the assent of the Right Hon'ble the Governor General of India.***

*An Act to declare the meaning and extent of certain words in Act V. of* 1840.

WHEREAS by Section IV. of Act V. of 1840, it was amongst other things provided, that the said Act should not extend to any declaration or affirmation made in any of Her Majesty's Courts of Justice, and doubts have arisen whether the words "Her Majesty's Courts of Justice" mean and extend to the Courts of the Justices of the Peace—

It is hereby declared and enacted, that the words "Her Majesty's Courts of Justice" in the said Act shall be deemed not to have meant nor extended to, and not to mean nor extend to the Courts of the Justices of the Peace.

Calcutta, 1847.—Printed at the Bengal Military Orphan Press, by W. Ridsdale.

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# ACT No. III. OF 1847.

***Passed by the Hon'ble the President of the Council of India in Council on the 19th of February 1847, with the assent of the Right Hon'ble the Governor General of India.***

*An Act to provide for the appointment of Constables and Peace Officers at the Settlements in the Straits.*

WHEREAS by the Letters Patent for the establishing Her Majesty's Court of Judicature at Prince of Wales' Island, Singapore and Malacca, His late Majesty King George the Fourth, amongst other things authorized and empowered the said Court at their General and Quarter Sessions from time to time to nominate and appoint such persons as the said Court should see fit to be and act as Constables, or to perform the duties performed by Constables and Subordinate Peace Officers in that part of his United Kingdom called England as nearly as the different religions, customs and manners of the different inhabitants of the said Settlements and places should require or would admit, and His said late Majesty authorized and empowered the said Court to direct that the said Constables and other Subordinate Peace Officers should have and exercise their authority in and over any particular District or Districts, or any particular class or classes, tribe or tribes of the inhabitants

of

of the said Settlements of Prince of Wales' Island, Singapore and Malacca and places aforesaid as the said Court should see fit. And His said late Majesty authorized and empowered the said Court to compel all and every such persons to serve the said offices to which they should be appointed in like manner as persons may be compelled to serve the office of Constable within that part of His United Kingdom called England so far as the religions, customs and manners of such persons would admit, and that before they should enter upon their respective offices they should respectively take before the said Court the oath of allegiance, and an oath well and faithfully to execute the same without favour or partiality, malice or hatred:

And whereas it is expedient that all Constables and Subordinate Peace Officers and other persons appointed to perform the duties of Police should receive pay in remuneration for the performance of their duties:

And whereas by the 13th Section of Act XII. of 1839, it was enacted that out of the Funds collected from the Assessment and Taxes leviable under that Act provision should be made in conformity with such instructions as might from time to time be issued by the Governor of Bengal for the efficient watching, cleansing, lighting and repairing of the Streets and Thoroughfares in the Towns of George Town, Singapore and Malacca, and for the making and repairing of Roads and Bridges, and the effecting of other purposes necessary for the comfort and protection of the inhabitants of the incorporated Settlement therein aforesaid:

And whereas it is expedient that all Constables and Subordinate Peace Officers and other persons appointed to perform duties of Police should be appointed by the authorities from whom they receive their pay and by no other:

I. It is therefore hereby enacted, that from and after the 19th day of March 1847, no Constable or Subordinate Peace Officer or other person

person appointed to perform duties of Police shall be appointed by the said Court at their General and Quarter Sessions or otherwise.

II. And it is hereby enacted, that the Deputy Superintendent of Police and every Constable and Subordinate Peace Officer and other person appointed to perform duties of Police except the Superintendent of Police shall be appointed by the Governor of Prince of Wales' Island, Singapore and Malacca, and that the Superintendent of Police shall continue to be appointed as heretofore by the Governor of Bengal.

Calcutta, 1847.—Printed at the Bengal Military Orphan Press, by W. Ridsdale.

# ACT No. IV. OF 1847.

***Passed by the Hon'ble the President of the Council of India in Council on the 10th of April 1847, with the assent of the Right Hon'ble the Governor General of India.***

*An Act to authorize the Governor in Council of Fort St. George to appoint any Military Officer a Magistrate.*

IT is hereby enacted, that from and after the First day of May 1847, it shall be competent to the Governor in Council of Fort St. George to appoint any Military Officer in the service of the East India Company, a Magistrate or an Assistant Magistrate in one or more Zillahs, and to confer on any Assistant Magistrate, by a special order, any of the powers of a Magistrate, any Law or Regulation to the contrary notwithstanding.

Calcutta, 1847.—Printed at the Bengal Military Orphan Press, by W. Ridsdale.

# ACT No. V. OF 1847.

***Passed by the Hon'ble the President of the Council of India in Council on the 10th April 1847, with the assent of the Right Hon'ble the Governor General of India.***

*An Act to facilitate the execution of the sentences of Courts established by the authority of the Governor General in Council for the administration of Criminal Justice in States or Territories administered by Officers acting under the authority of the East India Company.*

I. IT is hereby enacted, that within the Territories subject to the Government of the East India Company and without the local limits of the jurisdiction of Her Majesty's Courts of Judicature, the several Officers in charge of Jails shall be competent to give effect to any sentence that may be passed by any Court established or that may be established by the authority of the Governor General of India in Council for the administration of Criminal Justice in States or Territories administered by Officers acting under the authority of the East India Company, although such States or Territories are not subject to the Government of any one of the Presidencies of Fort William in Bengal, Fort St. George or Bombay, or are not subject to the operation of the General Regulations.

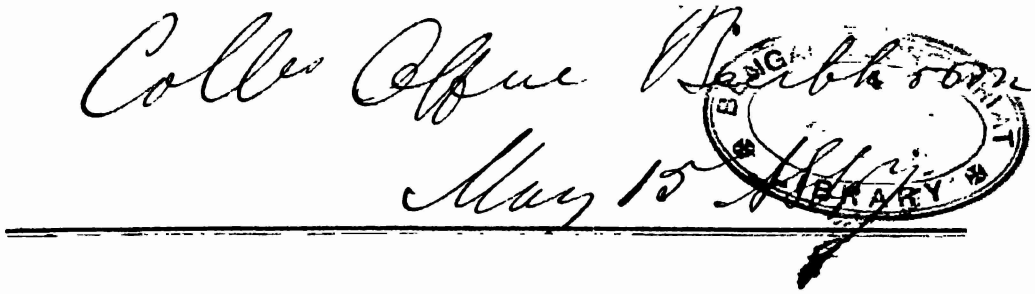
II. And

II. And it is hereby enacted, that a warrant under the Official Seal and Signature of the Officer or Officers exercising Criminal jurisdiction within such States or Territories as aforesaid shall be sufficient authority for holding any prisoner in confinement, or for transmitting any prisoner for transportation beyond Sea, or for inflicting any other punishment prescribed therein.

III. And it is hereby enacted, that if any Officer in charge of a Jail shall entertain any doubt as to the legality of any warrant sent to him for execution under this Act, or as to the competency of the person or persons whose Official Seal and Signature may be affixed thereto to pass the sentence and issue such warrant, such Officer shall refer the matter to the Government to which he is subject, by whose order on the case such Officer and all other public Officers shall be guided as to the future disposal of the prisoner, and that pending any such reference, the prisoner shall be detained in custody in such manner and with such restrictions or mitigations as may be specified in the warrant.

IV. And it is hereby enacted, that the provisions of the existing Acts and Regulations, and all other rules in force for the treatment and security of prisoners confined in the said jails, shall apply and be of equal force and effect in the case of prisoners confined therein under this Act as in the case of other prisoners confined therein.

Calcutta, 1847.—Printed at the Bengal Military Orphan Press, by W. Ridsdale.




# ACT No. VI. OF 1847.

***Passed by the Hon'ble the President of the Council of India in Council on the 1st May 1847, with the assent of the Right Hon'ble the Governor General of India.***

*An Act for establishing a Copper Currency in the Settlements of Penang, Singapore and Malacca.*

I. IT is hereby enacted, that from and after the date of the passing of this Act the provisions of Acts XXI. of 1835 and XXII. of 1844, shall not be deemed to apply to Copper Currency of the Settlements of Penang, Singapore and Malacca.

II. And it is hereby enacted, that from and after the 1st day of January 1848, the following Copper Coins only shall be received at or issued from any Government Treasury within the said Settlements:

1. A cent. weighing 144 grains troy.
2. A half cent. weighing 72 grains.
3. A quarter cent. weighing 36 grains.

III. And it is hereby enacted, that from and after the date of the passing of this Act the said cent. shall be legal tender throughout the said Settlements for $\frac{1}{100}$ of a Dollar and the said half cent. for $\frac{1}{200}$ of a Dollar, and the said quarter cent. for $\frac{1}{400}$ of a Dollar.

IV. Provided

IV. Provided always and it is hereby enacted, that none of the said Coins shall be legal tender except for fractions of a Dollar.

V. And it is hereby enacted, that after the 1st day of January 1848, no other Copper Coins or Tokens than those specified in Section II. of this Act shall be legal tender of payment for the fractional parts of a Dollar within the said Settlements.

VI. And it is hereby enacted, that with the exception of the Copper Coins specified in Section II. of this Act the circulation in the said Settlements after the said day of all Copper Coins or Tokens not being the authorized legal Coinage of any British or Foreign Government is prohibited.

VII. And it is hereby enacted, that after the said day any person who shall circulate, or attempt to circulate, in the said Settlements, any Copper Coins or Tokens other than those specified in Section II. of this Act, and not being the authorized legal Coinage of any British or Foreign Government shall on summary conviction before a Magistrate be liable to a fine not exceeding Ten Rupees and in default of payment any person so convicted shall be subject to imprisonment for a term not exceeding one month.

VIII. And it is hereby enacted, that it shall be competent to the Governor General in Council in his executive capacity to direct the coining and issuing, and to prescribe the devices and inscriptions of the Coins to be issued under the authority of this Act.

Calcutta, 1847.—Printed at the Bengal Military Orphan Press, by W. Ridsdale.

Burdwan Coll. Office
June 16. 1847

# ACT No. VII. OF 1847.

***Passed by the Hon'ble the President of the Council of India in Council on the 1st May 1847, with the assent of the Right Hon'ble the Governor General of India.***

*An Act to regulate Distresses for Small Rents in Calcutta.*

I. IT is hereby enacted, that it shall be lawful for the Commissioners of the Court of Commissioners for the Recovery of Small Debts in and for the Settlement of Fort William in Bengal to appoint four or more persons to be Bailiffs and Appraisers for the purposes of this Act, and to fix such remuneration for the services of the said Officers as shall appear to the said Commissioners expedient, and that such persons shall be duly sworn before the said Commissioners, and shall also give security to be approved by the said Commissioners faithfully to discharge the duties of their office, and that the said Commissioners shall have power to suspend or remove such persons so appointed, provided that it shall be lawful for the said Commissioners to appoint the Bailiffs who may be attached from time to time to the said Court to the office of Distraining Bailiffs and Appraisers for the purposes of this Act, and to award to the said Officers such remuneration in addition to their respective salaries drawn from the said Court as to the said Commissioners shall appear expedient.

II. And

II. And it is hereby enacted, that it shall be lawful for any Commissioner of the said Court upon the Affidavit in the Form contained in the Schedule to this Act annexed (marked D) of any party claiming to be entitled to arrears of rent of any House or Premises situate in Calcutta not exceeding the amount of 100 Rupees, or in case of absence of such party from Calcutta, or in case of respectable females who do not appear in public, upon the Affidavit of the Constituted Attorney of such party stating the amount of such arrears and for what time and at what rate the same became due, to issue a warrant under his hand and seal in the Form contained in the Schedule to this Act annexed (marked A) addressed to any one of such Officers directing him to levy the amount of such rent, together with the costs of the said distress in the manner therein mentioned, provided that it shall be lawful for any of the said Commissioners upon personal examination of the party applying for such warrant to grant or withhold the same at the discretion of the said Commissioner.

III. And it is hereby enacted, that by virtue of such warrant it shall be lawful for such Officer to seize the whole or such part of the Goods and Chattels upon the said Premises as shall be sufficient to cover the amount of the said rent, together with the costs of the said distress, and that he shall thereupon make an Inventory of the Goods and Chattels so seized, and shall give a notice in writing in the Form in the Schedule to this Act annexed (marked B) to the party from whom such rent is claimed to be due, or to any other person upon behalf of such party upon the said Premises that the said Goods and Chattels will be appraised and sold in manner therein mentioned. And that the said Officer shall file in the said Court true copies of the said Inventory and Notice, provided that it shall be lawful for the party from whom such rent is claimed to be due, at any time within five days from such seizure, to apply to any Commissioner of the said Court to discharge or suspend such warrant, and it shall be lawful for such Commissioner

missioner to discharge or suspend such warrant accordingly, with or without costs, provided always that it shall be lawful for any of the said Commissioners in his discretion to give reasonable time to such party to pay the said rent.

IV. And it is hereby enacted, that in default of such application, it shall be lawful for any two of such Officers at the expiration of five days from such seizure to appraise the Goods and Chattels so seized, and to give notice in writing in the Form in the Schedule to this Act annexed (marked E.) of the sale thereof at such time and place as they shall direct, after an interval of not less than two days, and that they shall file in the said Court a true copy of the said Notice, and that the same shall be sold accordingly, and that the said Officers shall forthwith after realization of the produce of the said sale, pay over the amount thereof to the Chief Clerk of the said Court, and the amount of such produce shall be applied in satisfaction of the sum claimed to be due, together with the costs of the said distress, and that the surplus, if any, shall be returned to the party from whom the said rent was claimed to be due, provided that it shall be lawful for such party to direct that such sale shall take place in any other manner, such party giving security for any extra costs attending such mode of sale.

V. And it is hereby enacted, that no costs shall be taken or demanded for such distress except those contained in the Schedule to this Act annexed (marked C.), and that it shall be lawful for the said Commissioners to apply the sum so raised as costs towards the payment of the contingent charges and remuneration of the said Bailiffs and Appraisers as shall appear to the said Commissioners expedient, and that the Chief Clerk of the said Court shall keep a book in which all sums received as costs upon distresses made under the provisions of this Act, and all sums paid as remuneration to the said Bailiffs and Appraisers, and all contingent charges incurred in respect of such distresses

tressess shall be duly entered, and that the Chief Clerk of the said Court shall also enter in the said book all sums realized by sale of the Goods and Chattels distrained and paid over to the Landlords under the provisions of this Act.

VI. And it is hereby enacted, that after the passing of this Act no distress shall be levied for arrears of rent amounting to Rupees 100, or less, except under the provisions of this Act, and that any person, except such Officer as appointed, levying or attempting to levy any such distress shall be guilty of a misdemeanor and shall be liable to be punished by fine and imprisonment for the same in addition to any other liability he may have incurred by such trespass.

VII. And it is hereby enacted, that this Act shall not extend to any arrears of rent exceeding 100 Rupees, nor in respect of any House or Premises situate out of Calcutta, nor to any rent due to Government, nor to any seizure except on the Premises in respect of which such rent is claimed.

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A.

*In the Court of Commissioners for the Recovery of Small Debts in and for the Settlement of Fort William in Bengal.*

*Form of Warrant.*

I hereby direct you to distrain the Goods and Chattels on the Premises of A. B., situate in ——— in the Town of Calcutta, for the sum of —— Rs., being the amount of ——— months' rent due to C. D., for

for the same on the ——— day of ——— last according to the provisions of the Act No. VII. of 1847. Dated 1st day of May.

(Signed and Sealed)

To E. F., *Sworn Bailiff and Appraiser.*

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B.

*In the Court of Commissioners for the Recovery of Small Debts in and for the Settlement of Fort William in Bengal.*

*Form of Inventory and Notice.*

(State particulars of Goods seized.)

Take Notice that I have this day seized the Goods and Chattels contained in the above Inventory for the sum of —— Rs., being the amount of ——— months' rent due to C. D., at —— last, and that unless you pay the amount thereof, together with the Costs of this Distress within five days from the date hereof, or obtain an order from one of the Commissioners of the Court of Requests to the contrary, the same will be appraised and sold pursuant to the provisions of the Act No. VII. of 1847.

(Signed) E. F.,

*Sworn Bailiff and Appraiser.*

To A. B.

C.

C.

*In the Court of Commissioners for the Recovery of Small Debts in and for the Settlement of Fort William in Bengal.*

*Scale of Fees to be levied in Distraints for House Rent.*

| Sums sued for. | Affidavit and Warrant to Distrain. | Order to Sell. | Commission. | Total. | Remarks. |
|---|---|---|---|---|---|
| 1 and under 5 Rs..... | 4 Annas,..... | 8 Annas,..... | 8 Annas,..... | Rs. 1 4 | |
| 5 and under 10 Rs..... | 8 Annas,..... | 8 Annas,..... | Rs. 1-0,..... | „ 2 0 | |
| 10 and under 15 Rs..... | 8 Annas,.. ... | 8 Annas,..... | Rs. 1-8,..... | „ 2 8 | |
| 15 and under 20 Rs..... | 8 Annas,..... | 1 Rupee,..... | Rs. 2-0,..... | „ 3 8 | |
| 20 and under 25 Rs..... | 12 Annas,..... | 1 Rupee,..... | Rs. 2-8,..... | „ 4 4 | |
| 25 and under 30 Rs..... | 1 Rupee,..... | 1 Rupee,..... | Rs. 3-0,..... | „ 5 0 | |
| 30 and under 35 Rs..... | 1 Rupee,..... | 1 Rupee,..... | Rs. 3-8,..... | „ 5 8 | |
| 35 and under 40 Rs..... | 1 Rupee,..... | Rs. 1-8,..... | Rs. 4-0,..... | „ 6 8 | |
| 40 and under 45 Rs..... | Rs. 1-4,..... | Rs. 2-0,..... | Rs. 4-8,..... | „ 7 12 | |
| 45 and under 50 Rs..... | Rs. 1-8,..... | Rs. 2-0,..... | Rs. 5-0,..... | „ 8 8 | |
| 50 and under 60 Rs..... | Rs. 2-0,..... | Rs. 2-0,..... | Rs. 6-0,..... | „ 10 0 | |
| 60 and under 80 Rs..... | Rs. 2-8,..... | Rs. 2-8,..... | Rs. 6-8,..... | „ 11 8 | |
| 80 to 100 Rs..... | Rs. 3-0,..... | Rs. 3-0,..... | Rs. 7-0,..... | „ 13 0 | |

The above scale is intended to include all expences except in Suits where the Tenant disputes the Landlord's claim, and Witnesses have to be subpœna'd, in which case, each Subpœna for sums under Rs. 40 must be paid for at 4 Annas each, and 12 Annas above that amount—and also where Peons were kept in charge of property distrained, 4 Annas per day must be paid per man.

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D.

*In the Court of Commissioners for the Recovery of Small Debts in and for the Settlement of Fort William in Bengal.*

A. B. —— (Plaintiff,)

*versus*

C. D. —— (Defendant.)

A. B.,

A. B., Inhabitant of ————, in the Town of Calcutta, —— ——— maketh oath and saith, that C. D. ——— who is also an Inhabitant of the Town of Calcutta, is justly indebted to ——— —— in the sum of Company's Rupees ——— for arrears of rent of the House and Premises No. ——, situated at ———, in the Town of Calcutta, due for ——— month, to wit from ——— to ———, at the rate of Co.'s Rs. ——— per mensem.
Sworn before me the ———day of———184———

*Commissioner.*

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E.

*In the Court of Commissioners for the Recovery of Small Debts in and for the Settlement of Fort William in Bengal.*

Take Notice that we have appraised the Goods and Chattels seized on the ———, under the provisions of the Act No. VII. of 1847, of which a Notice and Inventory had been duly served upon you under date the ———, and that the said Goods and Chattels will be sold on the ——— at ———pursuant to the provisions of the said Act.

(Signed) E. F.,

G. H.,

To A. B. *Sworn Bailiffs and Appraisers.*

Calcutta, 1847.—Printed at the Bengal Military Orphan Press, by W. Ridsdale.

June 16. 1847

# ACT No. VIII. OF 1847.

***Passed by the Hon'ble the President of the Council of India in Council on the 8th May 1847, with the assent of the Right Hon'ble the Governor General of India.***

*An Act for rendering lawful the Emigration of Laborers from the Port of Madras, in the Presidency of Fort St. George, to Mauritius.*

IT is hereby enacted, that from and after the passing of this Act emigration to Mauritius may lawfully take place under the provisions of the Act No. XV. of 1842, from the Port of Madras as well as from the Port of Calcutta.

II. And it is hereby enacted, that it shall be competent to the Governor in Council of Fort St. George to nominate a proper person to act as Protector of Emigrants at Madras, and that no Emigrant shall be permitted to embark without a Certificate from the Agent appointed by the Government of Mauritius, countersigned by the Protector, to the effect that such person has been engaged by him as an Emigrant to that Island on the part of the said Government.

Calcutta, 1847.—Printed at the Bengal Military Orphan Press, by W. Ridsdale.

BENGAL SECRETARIAT
LIBRARY
June 16. 1847

# ACT No. IX. OF 1847.

***Passed by the Hon'ble the President of the Council of India in Council on the 8th of May 1847, with the assent of the Right Hon'ble the Governor General of India.***

*An Act regarding the Assessment of Lands gained from the Sea or from Rivers by alluvion or dereliction within the Provinces of Bengal, Behar and Orissa.*

I. IT is hereby enacted, that such parts of the Regulations of the Bengal Code as establish tribunals and prescribe rules of procedure for investigations regarding the liability to assessment of lands gained from the sea or from rivers by alluvion or dereliction, or regarding the right of Government to the ownership thereof, shall from the date of the passing of this Act cease to have effect within the Provinces of Bengal, Behar and Orissa; and that all such investigations pending before the Collectors and Deputy Collectors in the said Provinces at the said date, shall forthwith be discontinued; and that no measures shall hereafter be taken for the assessment of such lands, or for the assertion of the right of Government to the ownership thereof, except under the provisions of this Act.

II. And it is hereby enacted, that the expression "Province of Orissa" in this Act shall be taken to mean only so much of the Province of Orissa as is subject to the Government of Bengal.

III. And

III. And it is hereby enacted, that within the said Provinces it shall be lawful for the Government of Bengal in all districts or parts of districts of which a revenue survey may have been or may hereafter be completed and approved by Government, to direct from time to time, whenever ten years from the approval of any such survey shall have expired, a new survey of lands on the banks of rivers and on the shores of the sea, in order to ascertain the changes that may have taken place since the date of the last previous survey, and to cause new maps to be made according to such new survey.

IV. And it is hereby enacted, that the approval of the revenue surveys of the following districts and parts of districts shall be deemed to have taken place on the undermentioned days, viz.

Of the district of Chittagong on the Sixth day of September 1842.

Of the district of Behar on the Ninth day of November 1844.

Of the district of Patna on the Twenty-second day of June 1844.

Of the district of Shahabad on the Twenty-eighth day of November 1846.

Of the district of Sarun on the Eighteenth day of February 1847.

Of Pergunnah Furkyah, in the district of Monghyr, on the Nineteenth day of September 1839.

Of the Northern division of the Province of Cuttack on the Twenty-fourth day of October 1842.

Of the central division of the Province of Cuttack on the Twenty-second day of February 1843.

Of the Southern division of the Province of Cuttack on the Nineteenth day of October 1842.

Of the district of Midnapoor, except Hidgellee and Tumlook, on the Twelfth day of September 1845.

Of Hidgellee and Tumlook, in the district of Midnapoor, on the Fifth day of October 1842.

Of

Of the district of Cachar on the Fifth day of February 1844.

Of Jynteeah and the Pergunnahs of Chapghat, Echamuttee, Ittisamnuggur and Bhurrun, in the district of Sylhet, on the Fifth day of February 1844.

Of the district of Gwalparah on the Twenty-fourth day of December 1842.

Of the district of Luckimpore on the Tenth day of November 1845.

Of the district of Seebpoor on the Eighth day of May 1843.

And that the approval of the revenue surveys of districts or parts of districts which may be hereafter surveyed, shall be deemed to have taken place on such day as may be specified as the day of such approval in the Calcutta Government Gazette.

V. And it is hereby enacted, that whenever on inspection of any such new map it shall appear to the Local Revenue Authorities that land has been washed away from or lost to any Estate paying revenue directly to Government, they shall without loss of time make a deduction from the sudder jumma of the said Estate equal to so much of the whole Sudder Jumma of the Estate as bears to the whole the same proportion as the Mofussil Jumma of the land lost bears to the Mofussil Jumma of the whole Estate; but if the Mofussil Jumma of the whole Estate or of the land lost cannot be ascertained to the satisfaction of the Local Revenue Authorities, then the said Local Revenue Authorities shall make a deduction from the Sudder Jumma of the Estate equal to so much of the whole Sudder Jumma of the Estate as bears to the whole the same proportion as the land lost bears to the whole Estate. And this deduction with the reasons thereof shall be forthwith reported by the Local Revenue Authorities for the information and orders of the Sudder Board of Revenue, whose orders thereupon shall be final.

VI. And it is hereby enacted, that whenever on inspection of any such new map it shall appear to the Local Revenue Authorities that

that land has been added to any Estate paying revenue directly to Government, they shall without delay assess the same with a revenue payable to Government according to the rules in force for assessing alluvial increments, and shall report their proceedings forthwith to the Sudder Board of Revenue whose orders thereupon shall be final.

VII. And it is hereby enacted, that whenever on inspection of any such new map it shall appear to the Local Revenue Authorities that an Island has been thrown up in a large and navigable river liable to be taken possession of by Government under Clause Third, Section 4, Regulation XI. 1825, of the Bengal Code, the said Local Revenue Authorities shall take immediate possession of the same for Government and shall assess and settle the land according to the rules in force in that behalf, reporting their proceedings forthwith for the approval of the Sudder Board of Revenue, whose orders thereupon in regard to the assessment shall be final. Provided however that any party aggrieved by the act of the Revenue Authorities in taking possession of any Island as aforesaid shall be at liberty to contest the same by a regular suit in the Civil Court.

VIII. And it is hereby enacted, that nothing in this Act contained shall affect suits for the assessment or for establishing the right of Government to the ownership of alluvial lands now pending in appeal before the Special Commissioners, or such as having been decided by the Lower Resumption Courts are at the date of the passing of this Act open to appeal to the Court of the Special Commissioners according to the Laws heretofore in force, and that all such cases shall be dealt with as if this Act had not been passed.

IX. And it is hereby enacted, that except as regards the proprietary right to Islands no suit or action in any Court of Justice shall lie against the Government, or any of its Officers on account of any thing done in good faith in the exercise of the powers conferred by this Act.

Calcutta, 1847.—Printed at the Bengal Military Orphan Press, by W. Ridsdale.

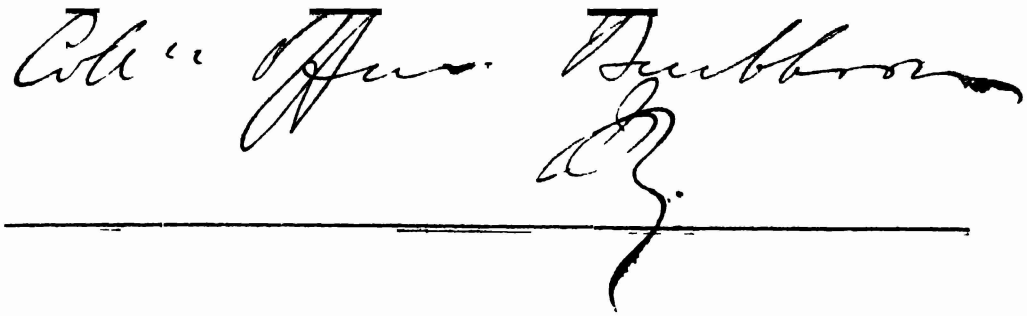
# ACT No. X. OF 1847.

***Passed by the Hon'ble the President of the Council of India in Council on the 19th of June 1847, with the assent of the Right Hon'ble the Governor General of India.***

*An Act for amending Act XXX. of* 1836.

IT is hereby enacted, that within the Territories subject to the Government of the East India Company whenever any Court not included under the provisions of Act XXIV. of 1843, shall sentence any offender to imprisonment for life under the provisions of Act XXX. of 1836, it shall at the same time sentence such offender to transportation beyond sea for life, unless there should be special reasons inducing the Court to think such prisoner not a proper subject for transportation, which special reasons the Court is hereby directed to record.

Calcutta, 1847.—Printed at the Bengal Military Orphan Press, by W. Ridsdale.



# ACT No. XI. OF 1847.

***Passed by the Hon'ble the President of the Council of India in Council on the 7th of August 1847, with the assent of the Right Hon'ble the Governor General of India.***

*An Act to authorize the reception of Convicts transported from Her Majesty's Settlement of Hong Kong.*

IT is hereby enacted, that it shall be lawful for the Governor General of India in Council in his executive capacity to authorize the Governor of Prince of Wales' Island, Singapore and Malacca, to receive in the said Settlements, and the Resident Councillors of Prince of Wales' Island, Singapore and Malacca, to receive in each of the said Settlements respectively, Convicts who have been duly sentenced to transportation by any competent Court in Her Majesty's Settlement of Hong Kong, and that every such Convict when so received at any such place, shall be liable to all such and the same Laws, Rules and Regulations as are or shall be in force in any such place with respect to Convicts transported from any place within the Territories subject to the Government of the East India Company.

Calcutta, 1847.—Printed at the Bengal Military Orphan Press, by W Ridsdale.

# ACT No. XII. OF 1847.

***Passed by the Hon'ble the President of the Council of India in Council on the 21st of August 1847, with the assent of the Right Hon'ble the Governor General of India.***

*An Act for repealing the Law which authorizes the imposition of fines on Moonsiffs and Sudder Ameens.*

WHEREAS it was enacted by Clause 3, Section 9, Regulation XXIII. of 1814, of the Bengal Code, that in cases of misconduct and neglect of duty which might not be of a nature to require the suspension or dismissal of a Moonsiff from his office, the Judge should be authorized to impose on the Moonsiff a fine not exceeding Twenty Rupees in amount, and that the order of the Judge in such case should be final:

And whereas by Section 67 of the said Regulation the provision above recited, was declared amongst other things to be applicable to the office of Sudder Ameens, as well as to that of Moonsiffs:

And whereas the provision above recited, is no longer adapted to Moonsiffs and Sudder Ameens, in the more elevated Judicial position which they now occupy:

It is therefore hereby enacted, that Clause 3, Section 9, Regulation XXIII. of 1814, and Section 67 of the said Regulation, so far as it declares the said Clause to be applicable to Sudder Ameens, are repealed.

Calcutta, 1847.—Printed at the Bengal Military Orphan Press, by W Ridsdale.

# ACT No. XIII. OF 1847.

***Passed by the Hon'ble the President of the Council of India in Council on the 21st of August 1847, with the assent of the Right Hon'ble the Governor General of India.***

*An Act for repealing Act XIV. of* 1839 *so far as it relates to the Emigration of Natives of India to the Island of Ceylon.*

I. WHEREAS by Act XIV. of 1839 it was enacted, that every person who should make with any Native of India any contract for labor to be performed in any British or Foreign Colony without the Territories of the East India Company, or who should knowingly abet or aid any Native of India in emigrating from the said Territories for the purpose of being employed as a laborer, should be liable on conviction before a Magistrate or Justice of the Peace, to a fine not exceeding 200 Rupees for every Native so contracted with, aided or abetted, and in default of payment of such fine, should be liable to be imprisoned for a term not exceeding three months:

Provided always that nothing in that Act contained should be taken to apply to any Native Seaman who should of his own free will contract to navigate any Vessel, or who should embark on board such Vessel in pursuance of such contract, or to any person who should contract to serve as a Menial Servant only, or who should embark as such Menial Servant:

## ACT No. XIII. OF 1847.

And whereas the Island of Ceylon geographically, historically and socially considered is analogous to the Countries subject to the Government of the East India Company:

It is hereby enacted, that Act XIV. of 1839 in so far as it makes liable to penalties every person who shall make with any Native of India any contract for labor to be performed in the said Island, or who shall knowingly aid or abet any Native of India in emigrating from the Territories subject to the Government of the East India Company to the said Island, is repealed.

II. But whereas the said Island is not subject to the Legislative power of the Governor General of India in Council, so that the said Governor General in Council is unable to make Laws for the protection of such Natives of India as may emigrate to the said Island against the evils which might attend the emigration of such Natives of India from the said Island to any British or Foreign Colony:

It is thereof hereby enacted, that this Act shall not come into operation until the Governor General of India in Council shall be duly certified that the Legislature of the said Island has made such Laws as the said Governor General in Council shall think sufficient for the protection of such Natives of India so emigrating to the said Island against the evils aforesaid, and shall notify in the Gazette that he has been so certified.

Calcutta, 1847.—Printed at the Bengal Military Orphan Press, by W. Ridsdale.

# ACT No. XIV. OF 1847.

*Passed by the Hon'ble the President of the Council of India in Council on the 28th of August* 1847, *with the assent of the Right Hon'ble the Governor General of India.*

*An Act for repealing parts of Section III. Regulation IV.* 1793, *and Section III. Regulation III.* 1803, *of the Bengal Code.*

IT is hereby enacted, that so much of Section III. Regulation IV. 1793, and of the corresponding part of Section III. Regulation III. 1803, of the Bengal Code, as requires the transcription of plaints, be repealed.

Calcutta, 1847.—Printed at the Bengal Military Orphan Press, by W. Ridsdale.

# ACT No. XV. OF 1847.

***Passed by the Hon'ble the President of the Council of India in Council on the 11th day of September 1847, with the assent of the Right Hon'ble the Governor General of India.***

*An Act for the Survey of Lands in the Town of Calcutta, within the Local limits of the Jurisdiction of Her Majesty's Supreme Court of Judicature.*

WHEREAS it is expedient that a correct Survey should be made of all lands in the Town of Calcutta within the local limits of Her Majesty's Supreme Court of Judicature:

It is therefore hereby enacted, that it shall be lawful for the Governor of Bengal to appoint an Officer to Survey the lands situate within the said local limits, and such Officer shall proceed to Survey the same and to register the names of the owners and occupiers thereof as far as they can be ascertained, and such Officer shall, by public notification, invite all persons owning or occupying lands and tenements within the said local limits to appear before him in person or by duly constituted attorney at whatever place within the said limits his office may be held, and to bring with him all Pottahs, Ground Rent Bills, Bills of Sale, or other writings requisite for the ascertainment of the past and present boundaries of such lands.

II. And

II. And it is hereby enacted, that the said Officer shall for the purposes of this Act have full power and authority at all seasonable hours in the day time to enter or to direct his Subordinate Officers to enter into and upon any land or tenement within the said local limits, and in and upon the land on which any house, building or other erection is built or building or intended to be built, and into and upon any buildings or any part thereof without being liable to any action at law or suit in Equity, or any other legal proceedings or molestation whatsoever for or on account of such entry into, or of any thing done or to be done in any part thereof in pursuance of this Act. Provided, that such Officer or Subordinate Officers shall not enter upon any lands or tenements which may be occupied at the time unless with the consent of the occupier thereof, without previously giving the said occupier reasonable notice of his or their intention to do so. Provided also, that if any action shall be commenced in the Supreme Court against any such Officer or Subordinate Officer for any entry made or other thing done under the authority of, or in pursuance of this Act, it shall be lawful for him or them to plead the general issue and to give the special matter in evidence.

III. And it is hereby enacted, that if any person at any time shall obstruct or molest the said Officer or any of his subordinate Officers in the performance and execution of his or their duty, or any thing which they are required to do by or by virtue or in consequence of this Act, every such person so offending shall be guilty of a misdemeanour and shall on conviction before a Magistrate for the Town of Calcutta forfeit and pay for every such offence any sum not exceeding 200 Rupees.

IV. And whereas such notification as is directed by Section 1 of this Act, may not in all cases be effectual, it is therefore hereby enacted, that it shall be lawful for the Surveying Officer to cause any person owning or occupying lands or tenements within the said local limits,

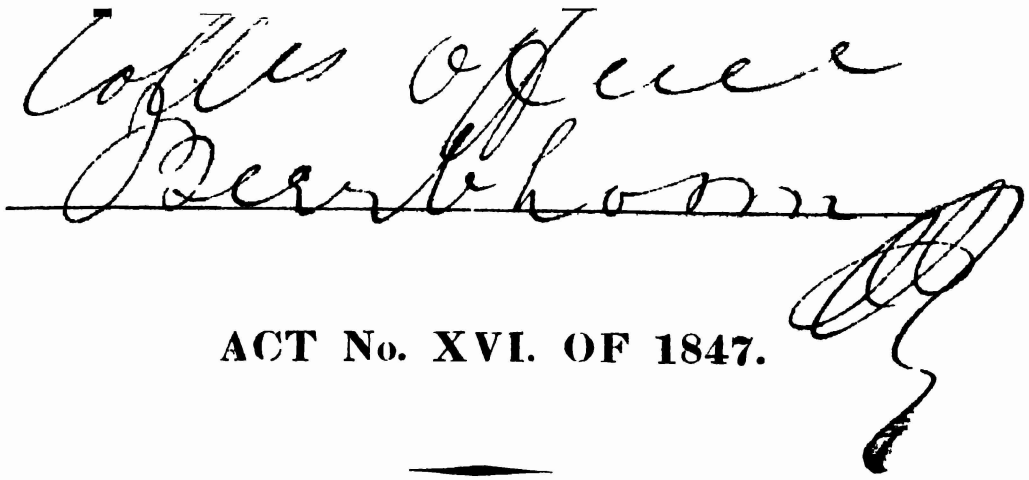
limits, or his agents or representatives, to be served with a special notice under his official seal and signature, stating the purpose for which the attendance of such person is required, and any document essential for the purposes of this Act which such person is to bring with him and the period within which such person is to attend, and if such person cannot be found the notice shall be affixed to his usual place of residence if that be within the said local limits, or if not, then on the Premises to be surveyed. Provided always, that no person shall be required to produce any Title Deed which such person may object to produce.

V. And it is hereby enacted, that for any investigation connected with the purposes of this Act it shall be lawful for the Surveying Officer by writing under his hand to summon any person whatsoever to attend as a witness at a time and place to be specified in such summons, and that every witness so duly summoned to attend as aforesaid, who shall not attend, or who attending shall refuse to give evidence on oath or solemn affirmation, or declaration, or to answer all such questions as the Surveying Officer may legally demand shall be liable to be attached in the Supreme Court upon complaint made in like manner as if such witness had neglected to attend on any trial in such Supreme Court.

VI. And it is hereby enacted, that any witness examined before such Surveying Officer shall be examined upon oath, which such Surveying Officer is hereby authorized to administer. Provided always, that in all cases wherein a solemn declaration or affirmation would be allowed in Her Majesty's Courts of Judicature to be substituted for an oath, the said Surveying Officer shall substitute such solemn declaration or affirmation for an oath.

VII. And it is hereby enacted, that any witness wilfully and knowingly giving false testimony on oath or solemn declaration or affirmation before such Surveying Officer shall be deemed guilty of wilful and corrupt perjury.

Calcutta, 1847.—Printed at the Bengal Military Orphan Press, by W Ridsdale.



# ACT No. XVI. OF 1847.

***Passed by the Hon'ble the President of the Council of India in Council on the 23d of October 1847, with the assent of the Right Hon'ble the Governor General of India.***

*For constituting Commissioners for the Improvement of the Town of Calcutta partly by appointment of the Government and partly by election of the Rate-payers.*

WHEREAS by the 158th Section of the 52d Chapter of the Statute 33, George III., certain powers and duties in regard to the collection and disbursement of the Assessment thereby authorized to be made by the Justices of the Peace within or for the Presidency of Fort William, were conferred and imposed upon the said Justices. And whereas by Act No. XXIV. of 1840, certain changes were made in the Law relating to the said Assessment.

And whereas it is apparent that the Sewerage and Drainage of the Town of Calcutta, and the supply of water for the domestic use of the inhabitants thereof, and the due cleansing of Drains therein, and the means of providing for the due ventilation of the Town, and the repairing, cleansing and lighting the roads and streets, and the making convenient lines of communication by spacious streets, and the preventing and removing of nuisances, and the due provision of adequate means for the relief of the sick

sick poor in the said Town are very defective, all which cause excessive disease and great mortality. And whereas the Laws and Regulations now in force, and the pecuniary means applicable to the said objects are wholly insufficient for the remedy of so great a mischief, and whereas it is expedient that remedy should be had herein.

I. It is hereby enacted, that Act No. XXIV. of 1840, entitled an Act for amending the Law with respect to Rates for municipal purposes within the Town of Calcutta, is repealed.

II. And it is hereby enacted, that all the said powers and duties in regard to the collection and disbursement of the said Assessments shall from and after the First day of January 1848 cease to be exercised and performed by the said Justices for the Town of Calcutta, and shall be exercised and performed by a Board of Seven Commissioners to be called the Commissioners for the Improvement of the Town of Calcutta, of whom three shall be appointed by the Governor of Bengal, and four shall be elected by the Rate-payers of the Town of Calcutta, that is to say, one by the Rate-payers of each of the following Divisions, viz.

*1st or Upper North Division, bounded*

A North by Maharattah Ditch.
South by Cotton Street and Meerbhur's Ghaut Street.
East by Chitpore Road.
West by River Hooghly.

B North by the Maharattah Ditch.
South by Mutchoa Bazar.
West by Chitpore Road.
East by Central Road.

C North and East by Circular Road.
South by Mutchoa Bazar Road.
West by Central Road.

*2d or Lower North Division, bounded*

A North by Cotton Street and Meerbhur's Ghaut Street.
South by the Police Ghaut, Hare Street, North side of Tank Square and Loll Bazar.
East by Chitpore Road.
West by the River Hooghly.

B North by Mutchoa Bazar.
South by Bow Bazar Street.
East by Central Road.
West by Chitpore Road.

C North by Mutchoa Bazar.
South by Bow Bazar Street.
East by Circular Road.
West by Central Road.

*3d or Upper South Division, bounded*

A North by Police Ghaut, Hare Street, North side of Tank Square, and Loll Bazar.
South by East and West Esplanade Row.
East by Cossitollah Street.
West by the River Hooghly.

B North by Bow Bazar Street.
South by Dhurrumtollah.
West by Cossitollah.
East by Central Road.

C North by Boitakhanna Street.
South by Dhurrumtollah ditto.
East by Circular Road.
West by Central Road.

*4th or Lower South Division, bounded*

A North by Dhurrumtollah Street.
South by Park Street.
East by Circular Road.
West by Chowringhee Road.

B South and East by Circular Road.
North by Park Street.
West by Chowringhee Road;

or of such other Divisions as the Governor of Bengal may from time to time appoint; or in default of election shall be appointed by the said Governor of Bengal, and any vacancies which may from time to time occur in the situations of any of the Commissioners who shall have been appointed by the said Governor, shall be filled up by the appointment of the said Governor.

III. And it is hereby enacted, that the said Commissioners shall severally receive such Salaries as may from time to time be fixed by the Governor of Bengal, with the concurrence of the Governor General in Council, and that for the exercise and performance of all the powers and duties hereinbefore or hereinafter conferred and imposed upon the said Commissioners, five shall be a quorum. Provided always and it is hereby enacted, that it shall be lawful for any one of the said Commissioners to issue a warrant of Distress for the recovery of any arrears of any rates or taxes accruing under the said 158th Section of the said Statute or under this Act.

IV. And it is hereby enacted, that the time and place and manner of the elections of the said elective Commissioners in each of the said Divisions shall be according to such scheme as shall be agreed upon by a general meeting of the Owners and Occupiers of assessed houses, buildings and grounds in the said Town, consisting of not less than one hundred

of

of the said Owners and Occupiers, and presented on behalf of such meeting to the Governor of Bengal and approved by him. But so as such elections shall take place annually.

Provided always and it is hereby enacted, that if no such general meeting shall be held within one month from the passing of this Act, or if no such scheme shall be presented on behalf of such meeting to the Governor of Bengal within one month after such meeting shall have been held, it shall then be lawful for the said Governor of Bengal to appoint the whole of the said Commissioners.

Provided also and it is hereby enacted, that the scheme shall be laid by the Governor of Bengal before the Governor General in Council for his approbation, and shall not be in force until such approbation shall have been signified in writing.

V. And it is hereby enacted, that the said Commissioners shall from and after the said day have power within the said Town to levy upon the Owners or Users of the several kinds of Carriages, Carts and Horses mentioned in the Schedule to this Act annexed, taxes according to the rates mentioned in the said Schedule, and that the said Commissioners shall have power and discretion to compound with Livery Stable Keepers and other persons keeping Carriages and Horses for hire for an annual rate of tax to be assessed upon the Carriages and Horses in their Establishments in lieu of taxes according to the rates mentioned in the said Schedule.

VI. And it is hereby enacted, that the said taxes according to the rates mentioned in the said Schedule shall be levied quarterly, and that every person who has been the Owner or User of a Carriage or Horse within the said Town during thirty days in any one quarter shall be liable for the taxes of that entire quarter. Provided always that no person who has

not

not been the Owner or User of a Carriage or Horse within the said Town during thirty days in any one quarter shall be liable to any tax in respect of any Carriage or Horse. Provided also that no such tax shall be levied in respect of any Horse, Carriage or Cart in the employment of Government.

VII. And it is hereby enacted, that the assessments and rates made under the authority of the Statute 33 George III. C. 52, Section 158, and of Section II. of this Act, shall be of such amount as together with the amount of the taxes to be levied by the Commissioners under Section V. of this Act, and together with such other funds as may be placed at the disposal of the said Commissioners by the Government of Bengal, shall appear to the said Commissioners expedient for completely effecting the purposes specified in this Act, any thing in the said 158th Section of the said Statute notwithstanding. Provided always, that no rate shall be made exceeding five per cent. on the assessed value of property without the sanction of the Governor of Bengal.

VIII. And it is hereby enacted, that for the assessment and collection of the rates and taxes to be levied by the said Commissioners it shall be lawful for the said Commissioners to appoint such Assessor or Assessors, Collector or Collectors, to make such union of the offices of Assessor and Collector, and to prescribe such rules and take such securities for the due execution of the duties of such Assessors and Collectors as the said Commissioners shall deem expedient, and such Assessors and Collectors shall receive such salaries as the Government of Bengal may see fit to sanction.

IX. And it is hereby enacted, that it shall not be necessary in any assessment rate or warrant of distress under the said Statute, and this Act, to specify the names of the Owners or Occupiers of houses, buildings and grounds; but it shall be sufficient if every property rated be identified,

and

and in the case of houses numbered in any street, that the name of the street and number of the house rated be particularly specified.

X. And it is hereby enacted, that the Goods and Chattels of the Owners of any houses, buildings or grounds rated under the said Statute, and this Act, shall be seizable any where (except Goods and Chattels concealed as hereinafter mentioned) for deficiency in the payment of rates, and that all Goods and Chattels which shall be found upon any premises rated shall be seizable for any arrears, which may be due for a period of one year immediately preceding such seizure, and in the case of the seizure of the Goods and Chattels of a tenant under such circumstances, such tenant may deduct the amount of the levy from the next payment of his rent.

XI. And it is hereby enacted, that when there is ground to suspect that Goods and Chattels liable to distress under the said Statute, and this Act, are concealed in any Zenana, the Officer charged with the execution of the warrant shall make a special report to the Commissioner granting the same, who shall thereupon follow as closely as is practicable, the rules for the seizure of Goods and Chattels in like cases adopted by Her Majesty's Supreme Court.

XII. And it is hereby enacted, that it shall be lawful for the said Commissioners, and they are hereby required to make rules and as occasion may require to add to, revoke or alter the same, for the regulation of the time and manner of assessing and levying the said taxes, and for compelling persons to give any information which may be necessary for that purpose, and for imposing penalties upon persons not performing any duty cast upon them by the said rules for the said purpose, and upon persons obstructing any persons acting under the said Commissioners in that behalf so as that such penalty shall not in any case exceed 100 Rupees.

XIII. And

XIII. And it is hereby enacted, that such rules shall be laid before the Governor of Bengal and approved by him, and shall then be laid by the said Governor of Bengal before the Governor General in Council, and when approved by him shall have the force of law. Provided always, and it is hereby enacted, that the said taxes shall not be leviable until such rules have been so made and approved.

XIV. And it is hereby enacted, that it shall be lawful for the said Commissioners to levy the arrears of the said taxes and any penalties which may be incurred under the said rules by the same process of distress as is hereinbefore provided for the levying of the aforesaid rates on houses, buildings and grounds.

XV. And it is hereby enacted, that the whole proceeds of the said rates and taxes, after paying all Salaries, Establishments and incidental expences of the said Commissioners shall, together with such monies as the Government of Bengal with the sanction of the Governor General in Council may direct to be paid over to the said Commissioners, be applied by them to the following purposes, viz.

1. Formation of Tanks and Aqueducts for the conveyance of water to all parts of the Town.

2. Opening of Streets and Squares in crowded parts of the Town.

3. Filling up stagnant pools of water and removing obstructions to the free circulation of air.

4. Lighting and watering the roads and streets.

5. Cleansing and repairing the same, and the drains of the said Town.

6. And in improving and embellishing the said Town generally.

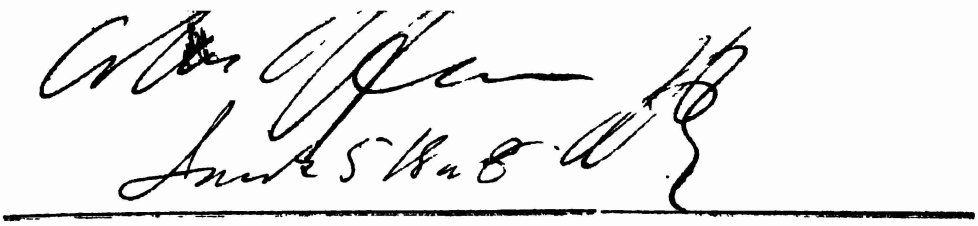
SCHEDULE.

# ACT No. XVI. OF 1847.

## SCHEDULE.

| | Per Annum. |
|---|---|
| For every 4 wheeled Carriage on springs, drawn by two Horses, | 32 Rs. |
| ,, every 4 wheeled ditto ditto, by one Horse, - - - - - | 7 ,, |
| ,, every 2 wheeled ditto ditto, by one Horse or two Horses, - | 16 ,, |
| ,, every Karanchee, Hackery or Cart, - - - - - - - | 5 ,, |
| ,, every Riding Horse or Pony, - - - - - - - - | 18 ,, |
| ,, every Draught Horse, - - - - - - - - - - | 2 ,, |
| ,, every Draught Pony or Tattoo, - - - - - - - - | 1 ,, |
| ,, every Draught or burthen Bullock, - - - - - - | 8 As. |

Calcutta, 1847.—Printed at the Bengal Military Orphan Press, by W. Ridsdale.



# ACT No. XVII. OF 1847.

***Passed by the Hon'ble the President of the Council of India in Council on the 6th November 1847, with the assent of the Right Hon'ble the Governor General of India.***

***An Act for remedying a defect in the Law regarding undiscovered defaults in the prosecution of Suits.***

WHEREAS inconvenience has resulted from the rule that the discovery of defaults in the prosecution of suits and appeals brought in any Court of the East India Company, within the Territories subject to the Presidencies of Bengal and Madras, invalidates all proceedings in such suits and appeals, which may have been had since the occurrence of such default:

It is hereby enacted, that in the said Courts every default of a plaintiff or appellant, in all suits or appeals now pending or hereafter to be brought, and in all suits which have been decided but are still open to appeal, shall be held to be cured whenever the opposite party, passing over the default, shall have taken any step in the suit or appeal, and whenever the Court shall have passed judgment in the suit or appeal, whether such opposite party shall or shall not have taken any such step.

Calcutta, 1847.—Printed at the Bengal Military Orphan Press, by W. Ridsdale.

# ACT No. XVIII. OF 1847.

*Passed by the Hon'ble the President of the Council of India in Council on the 27th November, 1847, with the assent of the Right Hon'ble the Governor General of India.*

*An Act for curing the invalidity in the registration of Deeds arising from the fact of having been registered by persons not duly appointed or on other than Court days.*

WHEREAS instances have occurred of persons exercising the office of Register of Deeds who have not been duly appointed, and whereas in some cases registration of Deeds has been made on other than Court days, that is on days other than those on which the Zillah or City Court has been open for business, and doubts may therefore arise as to whether the registration of any Deed registered by such persons not duly appointed, or registered on other than a Court day, is valid in law:

I. It is therefore hereby enacted, that acts which may have been done in that capacity in any Zillah, subject to the Presidency of Bengal, by persons who have had charge of the office of Register of Deeds without being duly appointed to the said office, shall be and shall be taken to have always been as valid in law as such acts would have been if the said persons had been duly appointed to have charge of the said office.

II. And it is enacted, that all acts which may have been done on other than Court days by the Register of Deeds, or by the person having charge of the office without being duly appointed, in any Zillah subject to the Presidency of Bengal, shall be and shall be taken to have always been as valid in law as such acts would have been if they had been done on a Court day.

Calcutta, 1847.—Printed at the Bengal Military Orphan Press, by W. Ridsdale.

BENGAL SECRETARIAT LIBRARY

# ACT No. XIX. OF 1847.

***Passed by the Governor General of India in Council on the 18th of December 1847.***

*An Act to make certain Amendments in the Articles of War for the Government of the Native Officers and Soldiers in the Military Service of the East India Company.*

WHEREAS it is expedient to make certain Amendments in the Articles of War provided by Act XX. of 1845, for the Government of the Native Officers and Soldiers in the Military Service of the East India Company, and for the Administration of Justice by Courts Martial to be holden on such Officers and Soldiers:

I. It is therefore hereby enacted, that from and after the First day of March 1848, the Articles of War provided by Act XX. of 1845, are repealed.

II. And it is enacted, that the following Articles of War shall from and after the said day be the Articles of War for the Government of the said Native Officers and Soldiers in the Military Service of the said Company, and for the Administration of Justice by Courts Martial to be holden on such Officers and Soldiers. Provided always that all crimes and offences committed against the Articles of War provided by Act XX. of 1845 aforesaid may be inquired of and punished in like manner as if they had been committed against the Articles of War hereby provided, and that every Warrant for holding any Court Martial under the Articles of War provided by the Act XX. of 1845 aforesaid shall remain in full force notwithstanding the repeal of such Articles; and that all proceedings of any Court Martial upon any trial begun under such Articles, shall not be discontinued by the repeal of the same.

# ACT No. XIX. OF 1847.

# ARTICLES OF WAR.

## SECTION I.

*Of Inlisting and Discharges.*

### Article 1.

Every Recruit, prior to being enrolled in his Regiment, shall have the First Four Articles of the Second Section of these Articles of War read and explained to him, and when reported fit for duty in the ranks, such Declaration as is now used, if any, in the respective Presidencies, shall be made to him by the Officer Commanding, in front of the Regiment or Corps, in presence of the Native Officers and Soldiers, and an oath or declaration shall then be required from him, according to the forms of his religion, such oath and declaration to be the like as are now used in the respective Presidencies.

### * Article 2.

No Commissioned Officer shall be dismissed except by the Sentence of a General Court Martial. No Non-Commissioned Officer or Soldier shall be discharged as a punishment except by the Sentence of a Court Martial, or by order of the Commander in Chief at the Presidency to which he may belong. Every such dismissal or discharge shall include forfeiture of all claim to pension. Provided also, that the Governor General in Council in his executive capacity, and the Governor in Council of any Presidency to which a Commissioned or Non-Commissioned Officer or Soldier may belong, shall have power to order his dismissal or discharge.

### Article 3.

All Non-Commissioned Officers and Soldiers discharged the Service, shall

shall be furnished by the Commanding Officer of the Regiment with a Discharge Certificate, made out in the Vernacular Language of the individual discharged, with an English Translation, expressing the authority for, and cause of, such discharge, and the period of his entire Service in the Army.

* ARTICLE 4.

No Non-Commissioned Officer or Soldier shall enlist himself in any other Regiment without a regular discharge from his former Regiment, under the penalty of being reputed a Deserter, and suffering accordingly.

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## SECTION II.

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*Crimes and Punishment.*

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*Crimes punishable with death, transportation, corporal punishment, imprisonment or dismissal.*

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ARTICLE 5.

Any Officer, or Soldier, who shall begin, excite, cause, or join in any Mutiny or Sedition in the Regiment or Corps to which he belongs, or in any other Corps or Regiment whatsoever, on any pretence whatever; or who, being present at any Mutiny or Sedition, shall not use his utmost endeavours to suppress it; or who, coming to the knowledge of any Mutiny, intended Mutiny, or concealed combination against the State, shall not without delay give information thereof to his Commanding Officer; —— or

ARTICLE 6.

ARTICLE 6.

Who shall strike his Superior Officer, or shall draw or offer to draw, or lift up any weapon, or use or offer any violence, against him; whether on or off duty, and under all circumstances in which his Superior Officer may be distinguishable as such in any manner; —— or

ARTICLE 7.

Who shall disobey any lawful Command of his Superior Officer;——or

ARTICLE 8.

Who shall desert from the East India Company's Service, (whether or not he shall re-enter or re-enlist in the same;) —— or

ARTICLE 9.

Who, being a Sentry, in time of War or alarm, shall sleep upon his post; or shall leave it before regularly relieved, or without leave; or shall plunder or injure the property placed under his charge; —— or

ARTICLE 10.

Who shall shamefully abandon or deliver up any Garrison, Fortress, Post, or Guard, committed to his charge, or which it was his duty to defend; or who shall use means to induce any other Officer or Soldier so to abandon or deliver up any such Garrison, Fortress, Post, or Guard; —— or

ARTICLE 11.

Who shall treacherously make known the watchword to any person not entitled to receive it, according to the Rules and Discipline of War; —— or

ARTICLE 12.

Who shall hold correspondence with or give intelligence to the Enemy, or any person in arms against the State, either directly or indirectly;

or

or who, coming to the knowledge of such correspondence or communication, shall not discover it immediately to the Commanding Officer; —— or

ARTICLE 13.

Who shall directly or indirectly assist or relieve the Enemy, or Persons in arms against the State, with money, victuals, or ammunition; or shall knowingly harbour or protect any Enemy or Person in arms against the State; —— or

ARTICLE 14.

Who shall treacherously release, wilfully aid, or connive at the escape of any Enemy or Person in arms against the State, placed as a Prisoner under his charge; —— or

ARTICLE 15.

Who shall misbehave himself before the Enemy, or persons in arms against whom he is led, or use means to induce others so to misbehave; —— or

ARTICLE 16.

Who shall in presence of an Enemy, or of persons in arms against whom he is led, shamefully cast away his arms or ammunition; —— or

ARTICLE 17.

Who shall leave his Commanding Officer, or his Post, or Colours, or Party, in time of action, to go in search of Plunder; —— or

ARTICLE 18.

Who, in time of War, shall do violence to any person bringing provisions or other necessaries to the Camp or Quarters of the Forces; or shall force a Safeguard; or break into any house, or other place for plunder; or plunder fields, or gardens, or other property; —— or

ARTICLE 19.

Who, in time of War, shall, by discharging fire arms, drawing swords, beating drums, making signals, using words, or by any means whatever, intentionally occasion false alarms, in Action, Camp, Garrison, or Quarters; —— or

ARTICLE 20.

Who shall, without proper authority, release any State Prisoner, or through carelessness or neglect shall suffer any such Prisoner to escape; or shall connive at the plunder or injury of property in time of war, or the plunder or injury of Treasure, or of a Magazine or Dock Yard, by the Sentry or Guard in whose charge such property, or Treasure, or Magazine, or Dock Yard is placed; —— or

ARTICLE 21.

Who, being a Sentry placed over any State Prisoner, or over Treasure, or over a Magazine or Dock Yard, shall quit his Post without being regularly relieved, or without leave; or shall sleep upon his Post; or shall plunder or injure the property placed under his charge;

Shall, if an Officer, on conviction, suffer Death, or Transportation for life, or be Dismissed the Service;

And, if a Soldier, shall, on conviction, suffer Death or Transportation for life; or Imprisonment with or without hard labour, for life or for any term of years; and with or without solitary confinement for any portion or portions of the term of imprisonment, not exceeding twenty-eight days at a time, nor eighty-four days in any one year, with intervals between the periods of solitary confinement of not less duration than such periods of solitary confinement; or shall suffer Corporal Punishment; or Dismissal from the Service; as by a General Court Martial shall be awarded. Provided that no Soldier shall be kept in solitary confinement more than eighty-four days in any one year, whether by the sentence of one or more Courts Martial, or by order of his Commanding Officer.

*Crimes*

*Crimes punishable by General Court Martial with Dismissal or Suspension of Officers, or by General or District Court Martial with Dismissal, Reduction, Corporal Punishment, or simple Imprisonment with or without solitary confinement, or Loss of Standing on the Roll, of Non-Commissioned Officers and Soldiers.*

ARTICLE 22.

Any Officer or Soldier who shall in operations in the field, spread reports by words or letters calculated to create unnecessary alarm in the Troops, or in the vicinity, or in rear of the Army; —— or

ARTICLE 23.

Who shall, in Action or previously to going into Action, use words tending to create Alarm or Despondency; —— or

ARTICLE 24.

Who shall be drunk when on, or for duty, or on Parade, or on the Line of March; —— or

ARTICLE 25.

Who shall strike or force any Sentry; —— or

ARTICLE 26.

Any Soldier who shall be grossly insubordinate or insolent to his Superior Officer in the execution of his office; or grossly insubordinate and violent in the presence of a Court Martial; —— or

ARTICLE 27.

Who, being on actual Service, shall refuse to assist in making field works;

Shall, if an Officer, on conviction, be Sentenced to be Dismissed the Service, or to be Suspended from Rank and Pay and Allowances;

* And,

And, if a Soldier, shall, on conviction before a General, or District, or Garrison Court Martial, be sentenced to suffer such punishment as a General, or District, or Garrison Court Martial is by these Articles of War respectively empowered to award.

Provided, that such Offender shall not be sentenced to Death, or Transportation, or Imprisonment with hard labour.

*Crimes punishable by General Court Martial with Dismissal or Suspension of Officers, or by General, or District Court Martial, with Dismissal, Reduction, Imprisonment with or without hard labour, and with or without solitary confinement, or Loss of Standing on the Roll, of Non-Commissioned Officers and Soldiers.*

ARTICLE 28.

Any Officer who shall behave in a manner unbecoming the character of an Officer; (the fact or facts whereon the charge is grounded being clearly specified therein;) —— or

ARTICLE 29.

Any Officer or Soldier who shall advise or persuade any other Officer or Soldier to desert, or who shall connive at such desertion; or who shall knowingly receive and entertain any Deserter, and shall not immediately on discovery give notice to his Superior Officer; or shall not cause such Deserter to be apprehended by the Civil Power; —— or

ARTICLE 30.

Who shall obtain or attempt to obtain for himself, or for any Officer or Soldier, or for any other person whatsoever, any Pension or Allowance, by any false Statement, Certificate, or Document, or by the omission of the true Statement, or Certificate, or Document; —— or

ARTICLE 31.

Who shall knowingly make a false Return or Report, to any his Superior

Superior Officer authorized to call for a Return or Report, of the state of the men under his Command, or of Arms, Ammunition, Clothing, or other Stores thereunto belonging, or of which he may have charge; —— or

ARTICLE 32.

Who, at any post, or on the march, shall illegally and against the will of the parties extort money or property of any description, as fees or duties, or on any pretence whatever; or shall, without authority, exact from Villagers or others, carriage, porterage, or provisions; —— or

ARTICLE 33.

Who shall wantonly and intentionally defile any place dedicated to religious worship, or shall wantonly and intentionally insult the religious prejudices of other persons;

Shall, if an Officer, on conviction, be sentenced to be Dismissed the Service, or to be Suspended from Rank and Pay and Allowances;

And, if a Soldier, shall, on conviction before a General, District, or Garrison Court Martial, be sentenced to suffer such punishment as a General, or District, or Garrison Court Martial is by these Articles of War respectively empowered to award.

Provided that such Offender shall not be sentenced to Death, or Transportation, or Corporal Punishment.

*Crimes punishable by General Court Martial with Dismissal or Suspension of Officers, or by any Court Martial with Dismissal, Reduction, Imprisonment with or without hard labour, and with or without solitary confinement, or Loss of Standing on the Roll, of Non-Commissioned Officers and Soldiers.*

ARTICLE 34.

Any Officer or Soldier, who, being under arrest or in confinement, shall leave his arrest or confinement before he is set at liberty by competent authority; —— or

ARTICLE 35.

Who shall malinger, feign or intentionally produce disease or infirmity; or intentionally delay his cure; or intentionally aggravate his disease or infirmity; —— or

ARTICLE 36.

Who shall, without orders, commit any waste, or spoil, or plunder, or shall injure or destroy any property; —— or

ARTICLE 37.

Any Soldier who shall, contrary to orders, when off duty, appear in or about Camp or Cantonments, or on occasion of visiting Towns or Bazars, carrying a Sword, Bludgeon, or other Weapon; —— or

ARTICLE 38.

Who shall sell, pawn, or designedly or through neglect lose or injure his Horse, Arms, Clothes, Accoutrements or Regimental Necessaries; or any of the above Articles entrusted or belonging to any other Soldier;

Shall, on conviction before a General, District, or Garrison, or Regimental Court Martial, be sentenced to suffer such punishment as such Courts Martial respectively are by these Articles of War empowered to award.

Provided

Provided that such offender shall not be sentenced to Death, or Transportation, or Corporal Punishment.

*Embezzlement; punishable by General Court Martial with Dismissal, Fine, and Imprisonment with or without hard labour, and with or without solitary confinement, of Officers and Soldiers.*

ARTICLE 39.

Any Officer, or Soldier, who shall embezzle or fraudulently misapply any money entrusted to him on the public account, or for any Military purpose; or any Provisions, Forage, Arms, Clothing, Ammunition, or Military Stores, of whatever kind or description, the property of Government, entrusted to his charge; or who shall wilfully spoil such property, or suffer it to be spoiled, or shall be concerned in or connive at any such embezzlement or fraudulent misapplication;

Shall, on conviction before a General Court Martial, be Dismissed the Service, and fined to the extent of his arrears of Pay and Allowances; and be further liable to suffer Imprisonment with or without hard labour for a term which may extend to three years, and with or without solitary confinement (to be regulated as aforesaid.)

*Disgraceful Conduct; punishable by General or District Court Martial, with Corporal Punishment, or Imprisonment with or without hard labour and solitary confinement, and in addition with forfeiture of additional Pay and of Pension on discharge, and stoppages, of Non-Commissioned Officers and Soldiers.*

ARTICLE 40.

Any Soldier who shall be guilty of *disgraceful conduct;*

In wilfully maiming or injuring himself, or any other Soldier at the instance of such Soldier, with intent to render himself or such Soldier unfit for the Service, or with intent to take his own life; —— or

ARTICLE 41.

ARTICLE 41.

In purloining or selling Government Stores; —— or

ARTICLE 42.

In stealing money or goods, the property of a Soldier, or of a Military Officer, or of any Military Mess, or of any person or persons belonging to or serving with or attached to the Army; —— or

ARTICLE 43.

In plundering or injuring property placed under his charge as Sentry, or in charge of his Guard, or in conniving at the plunder or injury of such property; —— or

ARTICLE 44.

In embezzling or fraudulently misapplying public money entrusted to him for any Military purpose; —— or

ARTICLE 45.

In committing any petty offence of a fraudulent or dishonest nature, to the injury of or with intent to injure the Government, or any person, Civil or Military; —— or

ARTICLE 46.

Who shall be guilty of any other *disgraceful conduct*, being of a cruel, indecent, or unnatural kind;

Shall, on conviction before a General, or District, or Garrison Court Martial, be liable to suffer such punishments as any such Courts are by these Articles of War respectively empowered to award for *disgraceful conduct*.

And

And every such offender shall, if not dismissed the service, further be put under stoppages, by sentence of the Court, not exceeding half of his monthly Pay and Allowances; until the amount be made good of any loss or damage arising out of his misconduct.

And if such offender shall be Dismissed the Service, he shall further be sentenced to forfeit his arrears of Pay and Allowances due at the time of his discharge, or in such proportion as may be required to make good such loss or damage.

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*Crimes punishable by General Court Martial with Suspension or Reprimand of Officers, or by any Court Martial with Dismissal, Reduction, or Simple Imprisonment with or without solitary confinement, or Loss of standing on the Roll, of Non-Commissioned Officers and Soldiers.*

ARTICLE 47.

Any Officer, or Non-Commissioned Officer who shall strike or otherwise illtreat any Soldier;—— or

ARTICLE 48.

Any Sentry who, in time of peace, shall sleep upon his Post; or shall leave it before regularly relieved or without leave; —— or

ARTICLE 49.

Any Officer, or Soldier, who shall knowingly enlist a Deserter, or connive at his enlistment; —— or

ARTICLE 50.

Who, directly or indirectly, shall require or accept a bribe, present, or gratification, on the pretence of, or as a consideration for procuring leave of absence, promotion, or any other advantage or indulgence for any Officer or Soldier; —— or

ARTICLE 51.

Who, being in Command at any Post, or on the march, on complaint made to him of any person under his command beating or otherwise ill-treating any person; or extorting from him more than he is obliged to furnish by authority, or disturbing fairs or markets, or committing any kind of riot; shall not see reparation done to the party or parties injured; or, if that be impracticable, shall not report the same to his Superior Officer; —— or

ARTICLE 52.

Who, being in Command of a Guard, shall refuse to receive any Prisoner duly committed to his charge; or shall without proper authority release any prisoner, or shall suffer, through carelessness or neglect, any prisoner to escape; —— or

ARTICLE 53.

Who shall quit his Guard, or Picquet, in time of peace, without being regularly relieved, or without leave; —— or

ARTICLE 54.

Who shall impede the Provost Marshal, or his Assistants, or any other Officer or person legally exercising authority; —or refuse to assist him when requiring his aid in the execution of his duty; —— or

ARTICLE 55.

Who, being on leave of absence, shall have received information from the Head Quarters of his Regiment, or from other competent authority, that his Regiment has been ordered on service, and shall not rejoin without delay; —— or

ARTICLE 56.

Who, in time of peace, shall, by discharging fire arms, drawing swords, beating drums, or by any other means whatever, intentionally occasion false alarms in Camp, Garrison, or Cantonments; —— or

ARTICLE 57.

ARTICLE 57.

Who shall fail to repair at the time fixed to the parade, or place appointed, for exercise or duty, if not prevented by sickness or some other sufficient cause; —— or

ARTICLE 58.

Who shall, without urgent necessity, or without leave of his Superior Officer, quit his Company, or Troop, or the Parade; —— or

ARTICLE 59.

Who shall absent himself without leave; or shall, without sufficient cause, overstay the period for which leave may have been granted him; —— or

ARTICLE 60.

Any Soldier who shall be found two miles from the Camp contrary to orders; —— or

ARTICLE 61.

Who shall, contrary to orders, be absent from his Cantonment after tatoo, or from Camp after retreat beating; —— or

ARTICLE 62.

Who shall sell, lose, or designedly, or through neglect, waste the ammunition delivered out to him;

Shall, if an Officer, on conviction, be sentenced to Suspension from Rank and Pay and Allowances; or to be Reprimanded in such manner as the Commander in Chief may direct;

And, if a Soldier, shall, on conviction before a General, or District, or Garrison, or Regimental Court Martial, be sentenced to suffer such punishment as any such Courts Martial are by these Articles of War respectively empowered to award;

Provided

Provided that such offender shall not be liable to be sentenced to suffer Corporal Punishment, or Imprisonment with hard labour.

ARTICLE 63.

All crimes not capital, and all disorders or neglects which Officers or Soldiers may be guilty of, to the prejudice of good order and Military discipline, though not specified in these Articles, are to be taken cognizance of by Courts Martial, and to be punished according to the nature and degree of the offence, by the Sentence of a General, or District, or Garrison, or Regimental Court Martial; provided that a Soldier shall not for any such offences be liable to be sentenced to suffer corporal punishment, or Imprisonment with hard labour.

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*Crimes incident to Courts Martial; punishable by General Court Martial with Dismissal or Suspension of Officers, and by any Court Martial with Dismissal or Reduction of Non-Commissioned Officers, and with Dismissal or Simple Imprisonment of Soldiers.*

ARTICLE 64.

Any person amenable to these Articles of War, who, when duly summoned before a Court Martial, shall not attend, or shall refuse to be sworn, or to make affirmation, or to answer any lawful question ; or who shall induce any other person so to offend ;

Shall be punished according to the Sentence of the same or another Court Martial, with Dismissal, or Suspension from Rank and Pay and Allowances, if a Commissioned Officer; with Dismissal, or Reduction to the ranks, if a Non-Commissioned Officer ; or with Dismissal, or Imprisonment, if a Soldier ;

Provided that such person, being a Commissioned Officer, shall not be liable to be punished by any but a General Court Martial ; and that no offender punished under the provision of this Article of War shall be sentenced to suffer Imprisonment with hard labour, or Corporal Punishment.

ARTICLE 65.

ARTICLE 65.

Any person not amenable to these Articles of War, who, having been summoned before any Court Martial, shall refuse or neglect to attend; or who, attending, shall refuse to be sworn, or to make affirmation, or to answer any lawful question; or shall give such testimony as, if given in a Criminal Court, would render him guilty of perjury ; or who shall induce any other person so to offend ;

Shall be delivered to a Magistrate to be proceeded against according to law.

ARTICLE 66.

Any person using menacing or disrespectful words, signs, or gestures, in the presence of a Court Martial then sitting, or causing any disorder or riot so as to disturb their proceedings ;

Shall be punished according to the condition of the offender and the nature and degree of his offence, by the Sentence of the same or another Court Martial, if he be amenable to these Articles of War ; provided that such offender shall not be liable to be sentenced to Corporal Punishment or to Imprisonment with hard labour ; and if not amenable to these Articles of War, the offender shall be delivered over to a Magistrate to be proceeded against according to law.

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*Perjury ; punishable by General or District Court Martial with Dismissal, and in addition with Fine, or simple Imprisonment, of Officers and Soldiers.*

ARTICLE 67.

Any Officer, or Soldier, who shall be found guilty of wilfully and knowingly giving false evidence on oath or affirmation on any trial before any General, or other Court Martial, or any Military Court entitled to administer an oath ; or of inducing any other person so to offend ;

Shall be Dismissed the Service, and shall be further subject to Fine to the amount of his arrears of Pay and Allowances, or to Imprisonment

which may extend to three years ;—according to the Sentence of a General, or District, or Garrison Court Martial.

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*Crimes admitting of less serious notice.*

ARTICLE 68.

Whereas it may be advisable that some of the offences which by the foregoing Articles are directed to be tried by a General, or District, or Garrison Court Martial, should, in certain cases which admit of less serious notice, be tried by District, or Garrison, or Regimental Courts Martial—in such cases the Officer Commanding the Regiment or Corps to which the offender belongs may, if he thinks it expedient and for the good of the Service, order the offender to be tried by Regimental Court Martial, for any offence ordinarily cognizable by District, or Garrison Court Martial; making however a report in every such case, for the information of the General Officer Commanding the Division, of the reasons of his having so proceeded ; or such Commanding Officer may lay a particular statement of the case before the General or other Officer having authority to convene General, or District, or Garrison Courts Martial, under whose command such offender may be serving, with an application for permission to try the offender by District, or Garrison, or Regimental Court Martial; and such General or other Officer will exercise his discretion in complying or not with such application; but the permission of such General or other Officer so to proceed, shall be entered upon the proceedings at the trial of such offender.

Provided that MUTINY shall not be considered one of the offences admitting of such discretionary investigation.

And that in cases where offences designated "*Disgraceful Conduct*" in these Articles of War, and admitting of less serious notice, shall be tried by Regimental Courts Martial, the term "*Disgraceful Conduct*" shall be omitted in the Charge; and the offender shall on conviction be liable to suffer such punishment as a Regimental Court Martial is by these Articles of War empowered to award.

*Offences*

*Offences on the Line of March or on board Vessels.*

ARTICLE 69.

For offences committed on the Line of March, or on board any Ship or other Vessel, the Officer in Command of the Troops is hereby authorized to try any Soldier by a Regimental, or Detachment Court Martial, and to confirm and execute the Sentence on the spot;

Provided that such Sentence shall in no case exceed that which a Regimental Court Martial is competent to award;—and that the proceedings held in all such cases shall be transmitted for the information of the Commander in Chief.

## SECTION III.

*Administration of Justice.*

ARTICLE 70.

Whenever any Officer or Soldier shall commit a crime deserving punishment by Court Martial, he shall, by his Commanding Officer, be put under arrest, if an Officer or Non-Commissioned Officer; or if a Soldier, be confined; until he shall be either tried by a Court Martial, or shall be lawfully discharged by a proper authority; and no Officer or Soldier who shall be put in such arrest or confinement shall continue in his confinement longer than may be actually unavoidable.

And such process of arrest or confinement, or an attempt to effect such process, shall in no case be omitted where it may be practicable;—but where resistance may be made, or from other circumstances such process may be impracticable, the offender or offenders shall be liable to trial and punishment at any subsequent period, within the limitations provided in these Articles of War.

ARTICLE 71.

ARTICLE 71.

No person shall be liable to be tried or punished for any offence against these Articles, which shall appear to have been committed *more than three years* previous to the order directing the assembly of the Court Martial whereby he is to be tried, unless the person accused, by reason of his absenting himself, or some other manifest impediment, shall not have been amenable to justice within that period; in which case such person shall be liable to be tried, at any time not exceeding *two years* after the impediment shall have ceased.

ARTICLE 72.

Any person amenable to these Articles of War, who may commit any offence against the same, may be tried and punished for such offence in any place within the British Territories, or elsewhere, where he may have come after the commission of the offence, in the same manner as if the offence had been committed where such trial shall take place.

ARTICLE 73.

The Commander in Chief at the Presidencies of Fort William, Fort Saint George, and Bombay respectively for the time being, may appoint General or other Courts Martial, and confirm, and mitigate or commute, or remit the Sentences of such Courts; and may issue his Warrant to any General or other Officer having the Command of a Body of Troops in the service of Her Majesty, or of the East India Company, empowering such Officer to appoint General, or District, or Garrison Courts Martial as occasion may require, for the trial of offences committed by any of the Officers, or Soldiers, or Followers in the service of the said Company, being Natives of the East Indies, or of other places within the limits of the said Company's Charter, and to confirm, and mitigate or commute, or remit the sentences of such Courts Martial.

ARTICLE 74.

A General Court Martial shall not consist of less than *thirteen* Commissioned Officers, unless it be held out of the East India Company's Territories,

Territories, where such Court Martial may consist of *seven* Commissioned Officers, if a greater number cannot be conveniently assembled. And no sentence of a General Court Martial shall be put in execution until after a report shall have been made of the whole proceedings to the Commander in Chief, or to some other person duly authorized to confirm the same, and until his directions shall have been signified thereupon.

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*Powers of a General Court Martial.*

* ARTICLE 75.

A General Court Martial may sentence any Officer or Soldier to Death or Transportation, for any crimes which are by these Articles of War expressly made liable to sentence of Death or Transportation, and for such crimes only.

And when a Commissioned Officer shall be convicted of any offence, of which the punishment is not defined in these Articles of War, or is left discretionary, a General Court Martial may adjudge such Officer to be Dismissed the service;—or to be Suspended from Rank and Pay and Allowances, for a stated period;—or to be Placed lower on the list of his rank, by an alteration of the date of his Commission, thereby losing the corresponding benefit of length of service; and the Court shall in every such sentence specify the extent or degree of Suspension or Reduction, which they shall so adjudge;—or the Court may sentence such Officer to be Reprimanded in such manner as the Commander in Chief may direct.

And a General Court Martial may sentence any Non-Commissioned Officer to be Reduced to the ranks;—or may sentence any Non-Commissioned Officer or Soldier to be Dismissed the service;—or to be Placed lower in the list of the rank which he holds (which shall not involve any forfeiture of service or other advantage, except that of standing,) or may sentence any Soldier to suffer Corporal Punishment not exceeding *fifty lashes*;—or Imprisonment with or without hard labour not exceeding *two years*;—and to be kept in solitary confinement for any portion or portions of such Imprisonment, not exceeding

twenty-eight days at a time, nor eighty-four days in any one year, with intervals between the periods of solitary confinement, of not less duration than such periods of solitary confinement. Provided that no Soldier shall be kept in solitary confinement more than eighty-four days in any one year, whether by the sentence of one or more Courts Martial, or by order of his Commanding Officer.

And a General Court Martial may, in addition either to Corporal Punishment, or to Imprisonment, as aforesaid, sentence a Soldier to Forfeiture of all advantage as to additional Pay and to Pension on discharge, which might have otherwise accrued from the length or nature of his former service; or to Forfeiture of such advantage absolutely, whether it might have accrued from past service, or might accrue from future service, according to the nature of the case, for *disgraceful conduct.*

And a General Court Martial may, in addition to the punishment of Dismissal, sentence any Officer or Soldier to forfeit his arrears of Pay and Allowances due at the time of his discharge, or such proportion thereof as may be required, to make good any loss or damage arising out of his misconduct;—And, in addition to any punishment not involving Dismissal from the service, may sentence any Officer or Soldier to be put under Stoppages not exceeding two-thirds of his Pay and Allowances in the case of an Officer, and not exceeding half of his Pay and Allowances in the case of a Non-Commissioned Officer or Soldier, until the amount of such loss or damage be made good.

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*Confirmation and Commutation of Sentence by the Commander in Chief.*

ARTICLE 76.

In cases wherein a Sentence of *Death* shall have been awarded by a General Court Martial, for any offence against discipline for which sentence of Death is awardable under these Articles of War, the Commander in Chief may confirm such Sentence and cause it to be carried into effect, or may, instead of causing such Sentence to be carried into effect, order the offender, if an Officer, to be Transported for life, or to

be

be Imprisoned for any term of years, or to be Dismissed; and, if a Soldier, to be Transported for life, or to be Imprisoned with or without Hard Labour either for life, or for a certain term of years, and with or without solitary confinement, (to be regulated as aforesaid,) as to the Commander in Chief may seem meet.

In cases of Commissioned Officers Sentenced to *Transportation*, the Commander in Chief may in lieu thereof order the offender to be imprisoned for any term of years, or to be Dismissed. And in cases of Commissioned Officers Sentenced to be *Dismissed* from the service, the Commander in Chief may, in lieu of such Punishment, direct, that the offender be Suspended from Rank and Pay and Allowances for a certain period, to be distinctly specified by the Commander in Chief.

And the Commander in Chief may commute a Sentence of *Transportation* passed on a Soldier, to Imprisonment with or without Hard Labour, and with or without Solitary Confinement (to be regulated as aforesaid); and such Imprisonment may be either for the same period for which Transportation shall have been awarded, or for any lesser period.

And the Commander in Chief may commute a Sentence of *Corporal Punishment* to Dismissal from the service; or, in the case of a Non-Commissioned Officer may mitigate such Sentence to Reduction to the ranks; or in the case of a Non-Commissioned Officer or Soldier may commute such Sentence to Imprisonment without Hard Labour, and with or without Solitary Confinement (to be regulated as aforesaid,) for any period not exceeding *two years*.

In cases of Non-Commissioned Officers Sentenced to be *Dismissed* from the service, the Commander in Chief may, in lieu of such punishment, direct that the offender be Reduced to the ranks, or placed lower in the list of the rank which he holds; (which shall not involve any forfeiture of service or other advantage, except that of standing.)



And

And in cases of offenders Sentenced to *Imprisonment with Hard Labour*, the Commander in Chief may mitigate such Sentence by causing the offender to be Reduced to the ranks, in the case of a Non-Commissioned Officer; or in the case of a Non-Commissioned Officer or Soldier by directing that he be Dismissed from the service; or suffer Imprisonment without Hard Labour, and with or without Solitary Confinement, (to be regulated as aforesaid), for any period not exceeding that for which he shall have been Sentenced to such Imprisonment with Hard Labour.

ARTICLE 77.

A District, or Garrison Court Martial shall consist of not less than *Seven* Commissioned Officers, except in situations where that number cannot be conveniently assembled, when such Court may consist of not less than *Five* Commissioned Officers. And such District, or Garrison Court Martial may be composed of Officers of the same Regiment, and shall be assembled in conformity with the orders of the Commander in Chief.

And the Sentence of a District, or Garrison Court Martial shall be confirmed by the Commander in Chief, or by some Officer duly authorized to confirm the same.

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*Commutation of Sentence.*

And the Commander in Chief is empowered to remit, or mitigate, or commute the Sentences of such Courts Martial, in the same manner as the Sentences of General Courts Martial; and to delegate to or withhold from Commanding Officers the power of convening such Courts Martial, and of confirming, remitting, mitigating, or commuting the Sentences of such Courts *(not including forfeiture of pay or pension or other advantage)*, as the Commander in Chief may deem to be most expedient.

And in case of any Sentence, including forfeiture of additional Pay or of Pension on Discharge, or of any prospective advantage, such Sentence

tence shall not be carried into effect until confirmed by the Commander in Chief; and all forfeitures of any present or prospective advantage shall be restorable by the same authority.

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*Powers of a District or Garrison Court Martial.*

* ARTICLE 78.

A District or Garrison Court Martial may Sentence any Non-Commissioned Officers to be Reduced to the ranks,—or may Sentence any Non-Commissioned Officer or Soldier to be Dismissed from the Service; or to be placed lower in the list of the rank which he holds (which shall not involve any forfeiture of service or other advantage, except that of standing;) or may Sentence any Soldier to suffer Corporal Punishment not exceeding *fifty lashes;* or Imprisonment with or without Hard Labour not exceeding *one year*, and to be kept in Solitary Confinement (to be regulated as aforesaid.)

And such Court Martial may, in addition either to Corporal Punishment or to Imprisonment as aforesaid, Sentence a Soldier to forfeiture of all advantage as to additional Pay, and to Pension on Discharge, which might have otherwise accrued from the length or nature of his former service, or to forfeiture of such advantage absolutely, whether it might have accrued from past service, or might accrue from future service, according to the nature of the case, for *disgraceful conduct.*

And such Court Martial may, in addition to the punishment of Dismissal, Sentence any Non-Commissioned Officer or Soldier to forfeit his arrears of Pay and Allowances due at the time of his discharge, or such proportion thereof as may be required to make good any loss or damage arising out of his misconduct; and in addition to any punishment not involving Dismissal from the service, may Sentence any Non-Commissioned Officer or Soldier to be put under Stoppages not exceeding half of his Pay and Allowances, until the amount of such loss or damage be made good.

ARTICLE 79.

A Regimental Court Martial shall consist of not less than *Five* Commissioned Officers, (unless it be found impracticable to assemble that number, when *Three* may be sufficient:) and shall be assembled by order of the Officer Commanding the Regiment. And no Sentence of a Regimental Court Martial shall be of force until the Commanding Officer shall have confirmed the same. Provided that such Commanding Officer shall have power to remit all Sentences whatever passed by such Court, and thereupon to cause the offender to be released and to return to his duty.

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*Commutation of Sentence.*

And such Commanding Officer shall have power to confirm and carry into effect or to mitigate all Sentences whatever passed by such Court; and to commute a Sentence of *Corporal Punishment* to Imprisonment without Hard Labour, and with or without Solitary Confinement, (to be regulated as aforesaid,) for any period for which such Court is competent to Sentence an offender to suffer Imprisonment and in the same manner; and to mitigate a Sentence of *Dismissal* in the case of a Non-Commissioned Officer, to Reduction to the Ranks;—and to commute a Sentence of *Imprisonment with Hard Labour*, to Dismissal; or to mitigate such Sentence to Reduction to the Ranks; or to Imprisonment without Hard Labour.

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*Powers of a Regimental Court Martial.*

* ARTICLE 80.

A Regimental Court Martial may sentence any Non-Commissioned Officer to be Reduced to the ranks;—or may sentence any Non-Commissioned Officer or Soldier to be dismissed from the service;—or to be placed lower in the list of the rank which he holds (which shall not involve any forfeiture of service or other advantage, except that of standing)

standing,)—or may Sentence any Soldier to suffer Corporal Punishment not exceedieg *fifty lashes;* or Imprisonment, with or with out hard labour, for any period not exceeding *six calendar months;* and to be kept in solitary confinement (to be regulated as aforesaid.)

Any such Court Martial may, in addition to the punishment of Dismissal, Sentence any Non-Commissioned Officer or Soldier to forfeit his arrears of Pay and Allowances due at the time of his discharge, or such proportion thereof as may be required to make good any loss or damage arising out of his misconduct; and in addition to any punishment not involving Dismissal from the service, may Sentence any Non-Commissioned Officer or Soldier to be put under Stoppages not exceeding half of his Pay and Allowances, until the amount of such loss or damage be made good.

ARTICLE 81.

An Officer Commanding any Detachment of his own Regiment, may assemble Regimental Detachment Courts Martial;—and an Officer Commanding a Detachment consisting of men of different Corps, may assemble Detachment or Line Courts Martial;—and all such Courts shall be constituted in the same manner as Regimental Courts Martial under the provisions of these Articles of War, and shall have the like powers.

And the provisions of these Articles of War relating to Courts Martial held in Regiments, shall be taken to apply to Courts Martial held in Detachments, in all practicable cases.

Provided that no Officer on detached Command of less than four Troops or Companies, or of Detachments numerically equal to four Troops or Companies, and not being on the line of march or on board any ship or other vessel, shall carry into effect any punishment awarded by a Court Martial held by his order, until the Sentence shall have been confirmed by the Officer Commanding the Regiment to which the offender belongs, or by the nearest Superior Officer holding a Command of not less than a Regiment;—(who is hereby authorized to confirm the

 same,

same, in like manner, as an Officer Commanding a Regiment is empowered to do;)—Except in detached situations beyond Sea or out of the British Territories, or when on Service in the field, or in cases where an *immediate example* is necessary and reference cannot be made to such Commanding or Superior Officer without detriment to the Service; when the Officer Commanding such Detachment may exercise the powers which are vested in an Officer Commanding a Regiment.

ARTICLE 82.

At all Courts Martial, it shall be competent to the Officer convening the Court to instruct the Court, that, should the Prisoner be found guilty, and Imprisonment form a part of the Sentence, no portion of the Imprisonment should be Solitary;—or, should Corporal Punishment be awardable to the offender, that it shall not be awarded in the particular case; and the Court will govern itself accordingly; and such instruction shall be in writing, and shall be attached to the proceedings of the Court.

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*Execution of Sentences of Courts Martial.*

ARTICLE 83.

In every sentence of Death awarded by a General Court Martial, the Court shall specify that the offender shall "suffer death by being hanged by the neck until he be dead," or "by being shot to death," as the Court in their discretion shall deem expedient; and such sentence, if confirmed, shall be carried into effect accordingly.

ARTICLE 84.

Whenever the sentence of a General Court Martial shall adjudge Transportation, or sentence of Death shall be commuted by competent authority to Transportation, any of the Sudder Courts shall give effect to such sentence, or commuted sentence, on the same being certified to the Court under the authority of the Commander in Chief.

And

And whenever any sentence of a Court Martial shall adjudge imprisonment with hard labour, or with solitary confinement, or both, or whenever the sentence of a Court Martial shall be commuted to any such Imprisonment, it shall be the duty of every Judge, Magistrate, Sheriff, or other Officer in charge of a Jail, to give effect to such sentence, on the offender being delivered into his custody, and on being furnished with a copy of the sentence by the Officer Commanding the Station or Regiment or Detachment, within which the trial is held.

ARTICLE 85.

Whenever any Soldier shall be sentenced to Imprisonment for life, or a sentence of Death shall be commuted to Imprisonment for life, it shall be lawful for the Commander in Chief to order such offender to be Transported beyond sea for life, and such order shall thereupon be made, unless there should be special reasons inducing the Commander in Chief to think such prisoner not a proper subject for Transportation.

ARTICLE 86.

Persons sentenced to Imprisonment by Courts Martial shall be imprisoned in any public prison or in any other fit place which the Commander in Chief shall from time to time direct.

ARTICLE 87.

Every Soldier sentenced to Imprisonment with hard labour, shall, previous to undergoing such punishment, be struck off the strength of his Corps from the date of confirmation of such sentence; and no Soldier who has undergone such punishment for any period shall be capable of being re-admitted in the ranks, or of receiving pension on discharge.

ARTICLE 88.

Offenders sentenced to Dismissal for *disgraceful conduct;*

And offenders subject to Corporal Punishment, or to Imprisonment with hard labour for *disgraceful conduct* shall, on any such sentence being confirmed, be Dismissed with Ignominy.

ARTICLE 89.

In every case wherein a fine, or forfeiture of arrears of pay, or stoppages shall be adjudged by a Court Martial, any pay or public money due to the offender, or that may become due to him, shall be available, with the sanction of the Commander in Chief, for the payment of the amount so adjudged.

And no Soldier sentenced to pay a fine or to stoppages to make good any loss or damage arising out of his misconduct, shall be continued under forfeiture or stoppages under any one such sentence for any period exceeding one year; and no Soldier shall be at any one time placed under forfeiture or stoppages exceeding in the whole the amount of half of his Pay and Allowances, nor be liable to be put under stoppages prospectively while actually under stoppages to the amount of half of his Pay and Allowances.

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*Forms of Proceeding.*

ARTICLE 90.

Trials by Courts Martial may be carried on between the hours of six in the morning and four in the afternoon, and not otherwise, except in cases which may require an immediate example.

ARTICLE 91.

At General Courts Martial a Judge Advocate, or an European Officer of not less than ten years service, shall be appointed to conduct the proceedings.

At all Courts Martial inferior to General, an European Officer of not less than four years standing in the service, except in cases where no Officer of that standing may be available, or the Adjutant of the Regiment, shall be appointed to conduct the proceedings.

ARTICLE 92.

In case of the unavoidable absence of an Interpreter, the European Superintending Officer of a Court Martial inferior to General, shall make the Solemn Affirmation prescribed for the Interpreter.

The Judge Advocate or Superintending Officer shall then cause the following Solemn Affirmation to be made by each Member:

"I, A. B., solemnly affirm in the presence of Almighty God, that I "will duly administer justice according to the Articles of War, without "partiality, favour, or affection, and, if any doubt shall arise, then, "according to my conscience, the best of my understanding, and the "custom of War in the like cases, and that I will not divulge the sen- "tence of the Court until it shall be published by authority; and further, "that I will not disclose or discover the vote or opinion of any particu- "lar Member of the Court, unless required to give evidence thereof "by a Court of Justice or a Court Martial in due course of Law."

The following Solemn Affirmation shall then be administered by the Interpreter to the Judge Advocate or Superintending Officer:

"I, A. B., solemnly affirm in the presence of Almighty God, that I "will not upon any account whatsoever disclose or discover the vote or "opinion of any particular Member of the Court Martial, unless required "to give evidence thereof as a witness by a Court of Justice, or a Court "Martial in due course of law, and that I will not, unless it be neces- "sary for the due discharge of my official duties, disclose the sentence "of the Court, until it shall be published by authority."

Provided, that it shall be necessary to re-administer these Solemn Affirmations on the commencement of fresh trials before the same Court.

ARTICLE 98.

All persons who give evidence at a Court Martial are to be examined on Oath according to the forms of their respective religions or on Affirmation—and persons of the Hindoo or Mahomedan persuasion and other persons making Affirmation, shall make Affirmation to the following effect:

"I solemnly affirm, in the presence of Almighty God, that what I "shall state shall be the truth, the whole truth, and nothing but the "truth."

And if any person making such Affirmation as aforesaid, shall wilfully and falsely state any matter or thing which if the same had been sworn would have amounted to perjury, every such offender shall be subject to the same punishment to which persons convicted of perjury are subject.

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*Summoning Witnesses not amenable to these Articles.*

ARTICLE 99.

In all cases where persons required as witnesses before a Court Martial, may not be amenable to Military Law, the Judge Advocate or Commanding Officer shall transmit to the Magistrate within whose jurisdiction the witness may reside, his summons for the attendance of such person, and the Magistrate shall cause the witness to be duly summoned.

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*Powers and Duties of Provost Marshals.*

ARTICLE 100.

For the prompt and instant repression of all irregularities and crimes which may be committed by Troops in the Field and on the Line of March, Provost Marshals shall be appointed by the Commander in Chief, and their Powers shall be regulated according to the established Usages of War and Rules of the Service; their duties are to take charge of Prisoners confined for offences of a general description; to preserve good Order and Discipline; to prevent Breaches of both, by Soldiers and Followers of the Army, and to punish on the spot, on the same day, those whom they may find in the immediate act of committing Breaches of good Order and Military Discipline; Provided, that the punishment

be

be limited to the necessity of the case, and shall accord with the orders which the Provost Marshals may from time to time receive from the Commander of the Forces in the Field, and that whatever may be the crime, the Provost Marshal or his Assistant shall see the offender commit the act, for which summary punishment may be inflicted, or if the Provost Marshal or his Assistant should not see the offender actually commit the crime, but that sufficient proof can be established of the offender's guilt, a Report shall be made to the Commander of the Army in the Field, who is hereby empowered to deal with the case as he may deem most conducive to the maintenance of good Order and Military Discipline. The duties of Provost Marshals being limited to the punishment of offenders whom they may detect in the actual commission of any crime, the General Commanding the Forces in the Field will cause them to exercise the powers entrusted to them in such manner and under such circumstances as he may consider best calculated to prevent and instantly to repress crimes injurious to the Discipline of the East India Company's Army and the Public Service.

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*Trials by European Courts Martial.*

ARTICLE 101.

At any Presidency where the Native Troops have hitherto been authorized to claim to be tried by European Courts Martial, every person amenable to these Articles of War, and who may be under orders for trial by a Court Martial, shall have the right to claim to be tried by European Officers; and should he make such claim, the Court, whether General, District, or Garrison, or Regimental, shall be composed of European Commissioned Officers, and the number of Members and the proceedings shall be governed in all respects by the provisions of these Articles.

And it shall be competent to the Governor General of India in Council by a General Order to authorize the Native Troops of any of the Presidencies to claim to be tried in like manner by European Courts Martial.

SECTION IV.

## SECTION IV.

*Effects of the Dead.*

* ARTICLE 102.

When any Officer or Soldier, or any person receiving public pay drawn by any Officer in charge of a Public Department belonging to the Army, may die, or be killed in the service, the Commanding Officer of the Regiment or Party, or Officer in charge of the Department, shall, if no Heir or Executor be present, secure his Effects, and direct an inventory thereof to be taken, a duplicate of which is to be lodged in the office of the Adjutant, or Officer in charge of the Department.

* ARTICLE 103.

If there be no Heir or Executor on the spot, the Effects are to be publicly sold; the Commanding Officer of the Regiment or Party, or Officer in charge of the Department, after discharging the debts of the deceased, viz. the expense of Funeral Ceremonies, his Debts in Camp or Quarters, and Regimental Debts of every description, shall account for the residue to the Heir or Heirs declared by Will, whether written or verbal, or nominated in the Regimental Register, or in failure of such to the legal representative of the deceased; and in the event of no Executor, Heir, or other representative of the deceased attending and establishing his claim within twelve months from the date of the casualty, the amount in the hands of the Officer having charge of the Estate, is to be remitted to the General Treasury at the Presidency.

## SECTION V.

*Miscellaneous.*

ARTICLE 104.

The Effects of Deserters are to be publicly sold, and the proceeds after payment of Regimental Debts, remitted by the Officer Commanding

ing the Corps to which the Deserter belongs, to the General Treasury at the Presidency, or appropriated according to the rules obtaining at such Presidency.

ARTICLE 105.

All powers and provisions contained in these Articles relating to the Commander in Chief, shall be construed to extend to the Commander in Chief at any Presidency, and to the Officer Commanding the Forces for the time being at any Presidency, unless when otherwise provided.

All powers and provisions contained in these Articles relating to Soldiers, shall be construed to extend to Non-Commissioned Officers, unless when otherwise provided.

ARTICLE 106.

When any portion of the Troops belonging to one Presidency shall be serving within the limits of another Presidency, such Troops shall be considered as placed, during such service, under the orders and authority of the Commander in Chief, or Commanding Officer of the Forces of the Presidency within which they are serving, for all the purposes of these Articles of War, in the same manner as though they belonged to such Presidency; and all the provisions of these Articles of War, which relate to the trial and punishment of offenders belonging to the Presidency within which the trial is held, are hereby declared applicable to the trial and punishment of offenders amenable to these Articles of War serving within such Presidency. Provided always that it shall be lawful for the Governor General in Council in his executive capacity, to direct that the Troops, or any part thereof of any Presidency, whilst serving without the limits of such Presidency shall continue under the orders and authority of the Commander in Chief, or Commanding Officer of the Forces of the Presidency to which they belong, for all purposes of these Articles.

ARTICLE 107.

Any Officer Commanding any portion of the East India Company's Troops which may at any time be serving in any place out of Her

Majesty's Dominions, or of the Possessions or Territories which are or may be under the Government of the said Company, or of the Territories of those States in alliance with the said Company in which the said Company's Forces are permanently stationed, shall, upon complaint made to him of any offence committed against the property or person of any inhabitant or resident in any such countries, by any person serving with or belonging to the Company's Army, being under the immediate Command of any such Officer, summon and cause to assemble a General Court Martial, which shall consist of not less than three Officers, for the purpose of trying any such person, notwithstanding any such Officer shall not have received any Warrant empowering him to assemble Courts Martial; and every such Court Martial shall have the same powers in regard to summoning and examining witnesses, trial of, and sentence upon any such offenders as are granted by these Articles to General Courts Martial; provided that no sentence of any such Court Martial shall be executed until the General Commanding in Chief the Army to which the Division, Brigade, Detachment, or Party to which any person so tried, convicted and adjudged to suffer punishment shall belong, shall have approved and confirmed the same; except where such sentence shall not exceed the powers granted by these Articles to a District, or Garrison Court Martial, in which case the Officer by whom the Court is convened is hereby authorized to confirm or commute, or mitigate, or remit the same; reporting the proceedings to the said General Commanding in Chief.

ARTICLE 108.

General Courts Martial only shall have the power to try Commissioned Officers; or to pass Sentence of Death or Transportation on any offenders.

ARTICLE 109.

No person, being acquitted or convicted before a Court Martial of any offence, shall be liable to be tried a second time by the same or any other Court Martial for the same offence. Provided always, that after a

Soldier

Soldier shall have been found guilty by a Court Martial of any military offence, such Court Martial shall inquire into and receive evidence of any previous conviction of such Soldier before a Court Martial or a Court of Justice, and shall enquire into the *general* character of such Soldier; for the purpose of affixing the punishment to which he is liable to be sentenced for the offence of which he has been so found guilty.

Provided that no such evidence shall in any case be received until the Court shall have ascertained that such Soldier had previously to his trial received notice of the intention to produce such evidence on the same. And it is hereby directed that such notice shall be given to all Soldiers previous to trial.

* ARTICLE 110.

No Non-Commissioned Officer shall be Reduced to the ranks but by the sentence of a Court Martial, or by order of the Commander in Chief of the Presidency to which the offender shall belong. Provided that no Non-Commissioned Officer shall be Reduced to the ranks for any limited period; nor Suspended from his rank; nor Reduced from a higher to a lower grade of Non-Commissioned Officer; nor sentenced to suffer Corporal Punishment or Imprisonment, without being first Reduced to the ranks.

* ARTICLE 111.

Any Officer or Soldier thinking himself wronged by his Superior or other Officer, is to complain thereof to the Commanding Officer of his Troop or Company, by whom if the grievance be not redressed, such Officer, Non-Commissioned Officer, or Soldier, may complain to the Commanding Officer of his Regiment, who is hereby required to examine into such complaint, or remit it to his superior authority as the circumstances may require; but if the complaint should appear to be frivolous or groundless, the party preferring it shall be liable to be punished according to the sentence of a General or other Court Martial in manner hereinbefore mentioned; provided that such offender shall not be liable

to

to be sentenced to Dismissal nor to suffer Corporal Punishment or Imprisonment with hard labour.

ARTICLE 112.

In case of light offences, a Commanding Officer, may, without the intervention of a Court Martial, award extra drill with or without pack for a period not exceeding fifteen days; restriction to Barrack limits not exceeding fifteen days; confinement in the Quarter Guard, or Defaulter's Room, not exceeding seven days; removal from Staff situations or acting appointments; or may order Soldiers to be employed in piling and unpiling shot; and in cleaning accoutrements of men in Hospital; but none of these descriptions of punishment shall be awardable by Sentence of a Court Martial. And a Commanding Officer may award solitary confinement not exceeding seven days.

Provided that Soldiers in confinement shall be liable to be ordered to attend ordinary drill.

ARTICLE 113.

Any Officer, or Soldier, who shall be taken prisoner by the Enemy, shall forfeit all claim to pay and allowances during the period of his remaining a prisoner and until he shall again return to the service; when, if he can establish, before a Court Martial, that he was unavoidably taken prisoner in the course of service, and resisted as long as he was able, and that he hath not served with or assisted the Enemy, and that he hath returned as soon as possible to the service, he shall be entitled to receive either the whole, or such portion of his arrears of pay and allowances as the Government of the Presidency to which he may belong shall determine, after the opinion or finding of such Court Martial shall have been confirmed by the Commander in Chief. And every Officer or Soldier in imprisonment under the sentence of a Court Martial, or a commuted sentence, or under the sentence of a Court of Criminal Judicature, shall, during the term of such imprisonment, receive subsistence only, to the amount of his pay proper, according to the rates of Pay granted to Officers and Soldiers of the Bengal Army.

SECTION VI.

## SECTION VI.

*Mode of dealing with offences not Military.*

ARTICLE 114.

In all places within the jurisdiction of any Civil Judicature, established by appointment of Her Majesty or of the said Company, Officers and Soldiers accused of capital crimes, or of violence, or of offences against person and property, punishable by such Civil Judicature, shall be delivered over to a Magistrate to be proceeded against according to Law.

And all Officers and Soldiers are hereby required to assist the Officers of Justice in apprehending and securing any person so accused.

*Crimes to be tried by Courts Martial where no regular Criminal tribunals exist.*

ARTICLE 115.

In any place within the limits of the Charter of the East India Company, whether in or out of the British Territories, where there may be no Civil Judicature appointed by Her Majesty or the said Company for the trial of persons accused of offences ordinarily cognizable by Civil Tribunals, such offences when committed by Officers or Soldiers shall be cognizable by Courts Martial.

ARTICLE 116.

General Courts Martial shall have cognizance ordinarily, of offences punishable with Death;

Transportation for Life;

Imprisonment for Life;

Imprisonment

Imprisonment for a period which may extend to fourteen years;

Imprisonment for a period which may extend to seven years.

ARTICLE 117.

District, or Garrison Courts Martial shall have cognizance, ordinarily, of offences punishable with Imprisonment for a period which may extend to three years, and, by special order, of offences ordinarily cognizable by General Courts Martial not liable to the punishment of Death or Transportation, with power to sentence persons convicted of such offences to Imprisonment for any period not exceeding three years.

ARTICLE 118.

Regimental, Detachment, or Line Courts Martial, shall have cognizance, ordinarily, of offences punishable with Imprisonment for a period not exceeding six calendar months, and, by special order, of offences ordinarily cognizable by District, or Garrison Courts Martial, with power to sentence persons convicted of such offences to Imprisonment for a period not exceeding six calendar months.

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*General Courts Martial.*

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*Punishment of Death.*

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ARTICLE 119.

Any Officer or Soldier who shall be convicted by a General Court Martial of the crime of "Murder" shall be sentenced to suffer Death by being hanged by the neck until he be dead.

If any injury intended against one person shall, through mistake or accident, light upon another person, and kill him, such killing shall be deemed to be murder, whensoever it would have been murder had the person against whom such injury was intended been killed.

Whensoever

Whensoever death shall result from any injury wilfully caused by an offender, but without his intending such injury to light on any person in particular, such offender shall be guilty of murder, if the offence would have been murder had he intended to do the injury to the person killed.

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*Offences punishable by Transportation for Life.*

ARTICLE 120.

Any Officer or Soldier who shall be convicted by a General Court Martial of any of the offences hereinafter mentioned, accompanied with an attempt to commit murder, or with wounding or other Corporal injury to any person endangering the life of such person: That is to say,

1st.—Breaking, or attempting to break, by day or night, into any Dwelling House, Tent, Boat, or other habitation, or into any building or place used for the preservation of property, with the intent to rob or steal.

2nd.—Robbery or attempt to rob.

3rd.—Stealing or attempting to steal in a house, or from the person;

Shall be Sentenced by such General Court Martial to Imprisonment with or without hard labour and Transportation for life.

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*Offences punishable by Imprisonment which may extend to fourteen years.*

ARTICLE 121.

Any Officer or Soldier who shall be convicted by a General Court Martial of any of the offences specified in the last Article, accompanied with wounding or other Corporal injury to any person not endangering the life of such person; —— or

ARTICLE 122.

ARTICLE 122.

Of wounding, or administering poison with intent to murder, whether the person wounded or to whom poison is administered, be the person whom the offender intended to murder or another; —— or

ARTICLE 123.

Of Robbery by open violence, or Dacoity, that is to say, going forth in the day or in the night with an offensive weapon, or in a gang with or without an offensive weapon, with the intention of committing robbery, and by force or intimidation robbing or attempting to rob any person in any place, or attacking by open violence any house, or place of habitation, or any place in which property may be kept, for the purpose of robbery; —— or

ARTICLE 124.

Of breaking, or attempting to break, into any Dwelling House, Tent, Boat, or other place of habitation, between sunset and sunrise, with intent to rob or steal; —— or

ARTICLE 125.

Of breaking into any such place of habitation, or into any place used for the preservation of property, and stealing therefrom property the value of which shall exceed one hundred Company's Rupees; —— or

ARTICLE 126.

Of purchasing or receiving plundered or stolen property, knowing it to have been obtained by robbery by open violence, or by theft or robbery aggravated as described in Article 120 or Article 121;

Shall be sentenced by such General Court Martial to Imprisonment with or without Hard Labour for a period not exceeding fourteen years.

*Offences*

*Offences punishable by Imprisonment not exceeding seven years.*

ARTICLE 127.

Any Officer or Soldier who shall be convicted by a General Court Martial of culpable Homicide not amounting to wilful murder; —— or

ARTICLE 128.

Of premeditated affray, attended with Homicide, or severe wounding, or other aggravating circumstance; —— or

ARTICLE 129.

Of intentionally wounding, maiming, or otherwise doing Corporal injury to any person; —— or

ARTICLE 130.

Of accidentally wounding, maiming, or otherwise doing Corporal injury to any person, with the intention of doing such injury to another person; —— or

ARTICLE 131.

Of breaking into any Dwelling House, Tent, Boat, or other place of habitation, or into any place used for the preservation of property, between sunrise and sunset, with intent to steal therein; —— or

ARTICLE 132.

Of stealing from any habitation, or from any person, any property exceeding Three Hundred Company's Rupees in value; —— or

ARTICLE 133.

Of having purchased any property so stolen, exceeding in value Three Hundred Company's Rupees, knowing it to have been stolen; —— or

ARTICLE 134.

Of Arson; —— or

ARTICLE 135.

Of an unnatural crime; —— or

ARTICLE 136.

Of Rape; —— or

ARTICLE 137.

Of enticing and taking away, or of causing to be enticed or taken away for any unlawful purpose, any unmarried woman under the age of fifteen years; —— or

ARTICLE 138.

Of stealing a child under the age of eight years;——or

ARTICLE 139.

Of counterfeiting, or causing or procuring the fraudulent fabrication or alteration of any written deed, or printed paper, of any description; or any counterfeit seal or signature thereto; or the illicit imitation of any public stamp or stamped paper, established by Government; or of fraudulently issuing and publishing as true, or of fraudulently giving effect, or attempting to give effect, to fabricated deeds and papers, knowing them to be forgeries; or of using, selling or disposing of such stamped paper, knowing the same to be counterfeit;——or

ARTICLE 140.

Of forging or procuring to be forged any counterfeit Coin, in imitation of any of the Gold, Silver or Copper Coin of the British Government in India; or of any Coin usually received as money in the British Territories; or of clipping, filing, drilling or defacing any such Coin; or of paying or tendering in payment counterfeit Coin, Bank Notes or other Securities for money, knowing the same to be counterfeit, although such Notes or Securities shall be incomplete;

Shall

Shall be Sentenced by such General Court Martial to suffer Imprisonment with or without Hard Labour, for any period not exceeding seven years.

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*District or Garrison Courts Martial.*

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*Offences punishable by Imprisonment not exceeding three years.*

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ARTICLE 141.

It shall be competent to the Commander in Chief, and to any Officer having authority to convene District or Garrison Courts Martial, to cause offenders, not being Commissioned Officers, accused of any of the offences specified in the preceding Articles of War, for which the punishment of Death, or Imprisonment or Transportation for Life is not provided therein, to be tried for such offences before a District, or Garrison Court Martial, and such Court shall have power, on conviction, to sentence any such offender to Imprisonment with or without Hard Labour for any period not exceeding three years.

ARTICLE 142.

Any Officer or Soldier who shall be convicted by a General, District, or Garrison Court Martial, of stealing from any habitation, or from the person, any property, of value not exceeding Three Hundred Company's Rupees but exceeding Fifty Company's Rupees; —— or

ARTICLE 143.

Of having purchased or received any stolen property of value not exceeding Three Hundred Company's Rupees, knowing it to have been stolen, but not under aggravating circumstances;—— or

ARTICLE 144.

ARTICLE 144.

Of having stolen property in his possession, and of having kept possession of such property after becoming aware of its having been stolen;

Shall be sentenced by such Court to suffer Imprisonment with or without Hard Labour for any period not exceeding three years.

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*Regimental, Detachment, or Line Courts Martial.*

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*Offences punishable by Imprisonment not exceeding six months.*

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ARTICLE 145.

It shall be competent to any Officer having authority to convene a Court Martial, to cause offenders, not being Commissioned Officers, accused of any of the offences specified in the preceding Articles of War, for which no punishment exceeding Imprisonment with Hard Labour for three years is therein provided, to be tried before Regimental, or Detachment, or Line Courts Martial, and any such Court shall have power, on conviction, to sentence any such offender to suffer Imprisonment with or without Hard Labour for any period not exceeding six calendar months.

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*Offences punishable by Imprisonment from six months to one year, according to the description of the Court.*

ARTICLE 146.

Any Officer or Soldier who shall be convicted of stealing property to the value of Fifty Company's Rupees, or of less value;—— or

ARTICLE 147.

ARTICLE 147.

Of Assault or Affray, unattended with Homicide, severe wounding, or aggravating circumstances;

Shall be sentenced to suffer Imprisonment with or without Hard Labour, for any period not exceeding one year, by the award of a General, or District, or Garrison Court Martial; or, for any period not exceeding six calendar months, by the award of a Regimental, or Detachment, or Line Court Martial.

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*Offences punishable by Imprisonment from six months to two years, according to the description of the Court.*

ARTICLE 148.

Any Officer or Soldier who shall be convicted of resisting the process of a Magistrate or Police Officer;—— or

ARTICLE 149.

Of having committed any offence against person or property for which provision is not already made in the preceding Articles of War;

Shall be sentenced to suffer Imprisonment for any period not exceeding two years, by the award of a General Court Martial; not exceeding one year, by the award of a District, or Garrison Court Martial; and not exceeding six calendar months, by the award of a Regimental, or Detachment, or Line Court Martial.

ARTICLE 150.

Any Officer or Soldier who shall be convicted by a General, or District, or Garrison, or Regimental Court Martial, of having been present, aiding and abetting, or of having caused, instigated, or procured, the commission of any of the offences specified in any of the preceding Articles, shall be sentenced by such Court to the punishment therein provided for

such offence, and awardable by General, or District or Garrison, or Regimental Courts Martial, respectively.

ARTICLE 151.

No sentence of Death shall be carried into effect until confirmed by the Commander in Chief, nor, if the trial shall have been held within the British Territories forming part of either of the Presidencies of Fort William, Fort St. George, and Bombay, respectively, until such confirmation shall have been concurred in by the Government of the Presidency where such trial shall have been held.

ARTICLE 152.

The Commander in Chief is authorized at his discretion to confirm any sentence of Death, or to remit such sentence, or to commute it into Imprisonment with hard labour and Transportation for life, or into Imprisonment with hard labour for any term of years.

ARTICLE 153.

No sentence of Transportation shall be carried into effect until confirmed by the Commander in Chief, and the Commander in Chief is authorized at his discretion to confirm any such sentence, or to commute it into Imprisonment with or without hard labour for any period of time.

ARTICLE 154.

It shall be competent to any Officer having authority to confirm the sentence of a General or other Court Matial to remit any sentence passed by such Court Martial, or to mitigate such sentence by substituting simple Imprisonment for Imprisonment with hard labour, or by reducing the period of Imprisonment, or by directing the discharge of the offender in lieu of any Imprisonment.

ARTICLE 155.

A person who may have been tried for any offence by a Court Martial under the authority of these Articles of War, shall not be tried for the same

same in any other Court whatsoever, and no person who shall have been acquitted or convicted of any offence by a Court of Civil Judicature shall be punished by a Court Martial for the same, otherwise than by Cashiering or Dismissal from the service.

ARTICLE 156.

The Regulations at present in force at any Presidency, by which the office and powers of Commissariat Officers, or Officers in charge of the Police, or Superintendents of Bazars, are defined and controuled; or by which Punchayets are constituted and guided; or by which jurisdiction is given to Courts Martial over offences committed by persons amenable to the Articles of War, within certain limits beyond or around Cantonments; are hereby declared to be in full force, and the same shall continue to be observed at the several Presidencies respectively.

## SECTION VII.

*Application of the Articles.*

ARTICLE 157.

All Officers and Soldiers, all Drivers, Farriers, Trumpeters, and Drummers; all unattested Recruits; all Hospital Attendants, Sub-Assistant Surgeons, Native Doctors, and Dressers; all Artificers and Labourers, Suttlers, Followers, public and private, or others attached to or serving with any part of the Army, are to be governed by these Articles and subject to trial by Courts Martial.

Provided, that persons of European descent, (whether on the side of their father or mother) professing the Christian religion, shall not be amenable to these Articles; but if belonging to the descriptions mentioned in this Article, (and not being Her Majesty's natural born subjects born in Europe, or the children of such subjects,) shall be tried and punished

punished in the same manner as persons are who are subject to the Mutiny Act and Articles of War in force for the better government of the European Officers and Soldiers in the Service of the East India Company.

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*Promulgation of the Articles.*

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ARTICLE 158.

These Articles are to be translated into the several languages of the different Presidencies, and the parts following, viz. the second Section, together with the following Articles in other Sections which are marked with an * (Asterisk), viz. 2, 4, 75, 78, 80, 102, 103, 110, and 111, are to be read once every three months at the head of every Regiment, Troop or Company mustered in the service, and to every Recruit at the period of his attestation.

Calcutta 1847 :—Printed at the Bengal Military Orphan Press, by W. Ridsdale.

# ACT No. XX. OF 1847.

*Passed by the Right Hon'ble the Governor General of India in Council on the 18th of December, 1847.*

*An Act for the encouragement of learning in the Territories subject to the Government of the East India Company, by defining and providing for the enforcement of the right called Copyright therein.*

WHEREAS doubts may exist whether the right called Copyright can be enforced by the Common Law of England in those parts of the Territories subject to the Government of the East India Company into which the Common Law of England has been introduced:

And whereas doubts may exist whether the said right can be enforced by virtue of the principles of equity and good conscience in the other parts of the Territories subject to the Government of the East India Company:

And whereas for the encouragement of learning it is desirable that the existence of the said right should be placed beyond doubt, and that the said right should be made capable of easy enforcement in every part of the said Territories:

And

And whereas it is doubtful whether the Act of Parliament 5 and 6, Victoria, C. 45, entitled "*an Act to amend the Law of Copyright*," although such Act extend to every part of the British Dominions, has made appropriate and sufficient provision for the enforcement in every part of the said Territories subject to the Government of the East India Company of the said right by proprietors thereof: and whether the said Act of Parliament has made provision for the enforcement of the said right by or against any persons not being subject to the jurisdiction of the Courts established by Her Majesty's Charter:

I. It is therefore hereby enacted, that the Copyright in every book published in the life-time of its author within the said Territories after the passing of the Act of Parliament 3 and 4, Wm. 4, C. 85, entitled "*an Act for effecting an arrangement with the East India Company and for the better government of His Majesty's Indian Territories till the 30th day of April*, 1854," shall endure for the natural life of such author, and for the further term of seven years commencing at the time of his death and shall be the property of such author and his assigns: Provided always, that if the said term of seven years shall expire before the end of forty-two years from the publication of such book, the Copyright shall in that case endure for such period of forty-two years; and that the Copyright in every book published after the death of its author and after the passing of the Act of Parliament last aforesaid shall endure for the term of forty-two years from the first publication thereof and shall be the property of the proprietor of the author's manuscript, from which such book shall be first published, and his assigns.

II. And whereas it is expedient to provide against the suppression of books of importance to the public: It is enacted, that it shall be lawful for the Governor General in Council on complaint made to them that the proprietor of the Copyright in any book published after the passing of this

Act

Act within the said Territories, has after the death of its author refused to republish or to allow the republication of the same, and that by reason of such refusal such book may be withheld from the public, to grant a licence to such complainant to publish such book in such manner and subject to such conditions as they may think fit, and it shall be lawful for such complainant to publish such book according to such licence.

III. And it is hereby enacted, that a Book of Registry wherein may be registered as hereinafter enacted the proprietorship in the Copyright of books and assignments thereof, and licences affecting such Copyright, shall be kept in the office of the Secretary to the Government of India for the Home Department, and shall at all convenient times be opened to the inspection of any person on payment of Eight Annas for every entry which shall be searched for or inspected in the said book, and that such Officer shall whenever thereunto reasonably required, give a copy of any entry in such book certified under his hand, to any person requiring the same on payment to him of the sum of Two Rupees, and such copies so certified shall be received in evidence in all Courts and in all summary proceedings, and shall be *prima facie* proof of the proprietorship or assignment of Copyright or licence as therein expressed, but subject to be rebutted by other evidence.

IV. And it is enacted, that if any person shall wilfully make or cause to be made any false entry in the Registry Book aforesaid, or shall wilfully produce, or cause to be tendered in evidence any paper falsely purporting to be a copy of any entry in the said Book, he shall be guilty of a misdemeanour and shall be punished with imprisonment with or without hard labour for a term not exceeding three years.

V. And it is enacted, that after the passing of this Act, it shall be lawful for the proprietor of Copyright in any book published, after the passing

passing of the said Act of Parliament 3 and 4, Wm. 4, C. 85, to make entry in the Registry Book of the title of such book, the time of the first publication, and the name and place of abode of the publisher thereof, and the name and place of abode of the proprietor of the Copyright of the said book, or of any portion of such Copyright in the form in that behalf given in the Schedule to this Act annexed upon payment of the sum of Two Rupees to the said Secretary, and that it shall be lawful for every such registered proprietor to assign his interest or any portion of his interest therein, by making entry in the said Book of Registry of such assignment, and of the name and place of abode of the Assignee thereof in the form given in that behalf in the said Schedule on payment of the like sum; and such assignment so entered shall be effectual in Law to all intents and purposes whatsoever without being subject to any stamp or duty, and shall be of the same force and effect as if such assignment had been made by Deed.

VI. And it is enacted, that if any person shall deem himself aggrieved by any entry made under colour of this Act in the said Book of Registry, it shall be lawful for such person to apply by motion to the Supreme Court of Calcutta, or if the Court shall not be then sitting to any Judge of such Court sitting in Chambers for an order that such entry may be expunged or varied, and that upon any such application to the said Court, or to a Judge as aforesaid, such Court or Judge shall make such order for expunging, varying or confirming such entry either with or without costs, as to such Court or Judge shall seem just, and the said Secretary shall on the production to him of any such order for expunging or varying any such entry expunge or vary the same according to the requisitions of such order.

VII. And it is enacted, that if any person shall after the passing of this Act print or cause to be printed either for sale or exportation, any book in which there shall be subsisting Copyright without the consent in writing of the proprietor thereof, or shall have in his possession for sale or hire

hire any such book so unlawfully printed without such consent as aforesaid, such offender if he shall have so offended within the local limits of the jurisdiction of any of the Courts of Judicature established by Her Majesty's Charter, shall be liable to a special action on the case in such Court, and if he shall have so offended in any other part of the Territories subject to the Government of the East India Company to a suit in the Zillah Court within the jurisdiction of which he shall have so offended, which shall and may be prosecuted in the same manner in which any other action of damages may be brought and prosecuted there, and if he shall have so offended in any such last mentioned part of the Territories subject to the Government of the East India Company in which there is no Zillah Court, to a suit in the highest local Court exercising original Civil jurisdiction in such part of the said Territories.

VIII. And it is hereby enacted, that after the passing of this Act in any suit or action brought in any of the Courts of Judicature established by Her Majesty's Charter under the provisions of this Act against any person for printing any such book for sale, hire or exportation, or for selling, publishing or exposing to sale or hire, or causing to be sold, published or exposed to sale or hire, or for having in his possession for sale or hire any such book so unlawfully printed, the defendant on pleading thereto shall give to the plaintiff a notice in writing of any objections on which he means to rely on the trial of such action, and if the nature of his defence be that the plaintiff in such action was not the author or first publisher of the book in which he shall by such action claim Copyright, or is not the proprietor of the Copyright therein, or that some other person than the plaintiff was the author or first publisher of such book, or is the proprietor of the Copyright therein, then the defendant shall specify in such notice the name of the person who he alleges to have been the author or first publisher of such book, or the proprietor of the Copyright therein, together with the title of such book, and the time when and the place

where

where such book was first published, otherwise the defendant in such action shall not at the trial or hearing of such action be allowed to give any evidence that the plaintiff in such action was not the author or first publisher of the book in which he claims such Copyright as aforesaid, or that he was not the proprietor of the Copyright therein, and at such trial or hearing no other objection shall be allowed to be made on behalf of such defendant than the objections stated in such notice, or that any other person was the author or first publisher of such book, or the proprietor of the Copyright therein than the person specified in such notice, or give in evidence in support of his defence any other book than one substantially corresponding in title, time and place of publication with the title, time and place specified in such notice.

IX. And it is hereby enacted, that after the passing of this Act in any such suit or action as last aforesaid brought in any Zillah Court or other local Court as aforesaid the defendant shall state in his answer all such matters as he means to rely on and which by the last preceding Section the defendant in any suit or action brought in any of the Courts of Judicature established by Her Majesty's Charter is required to give notice of in writing, otherwise such defendant shall be subject to the same consequences for any omission in his answer as a defendant is made subject to by the last preceding Section for any omission in his notice.

X. And it is hereby enacted, that when any publisher or other person shall within the said Territories before or at the time of the passing of this Act, but after the passing of the said Act of Parliament 3 and 4, Wm. 4, C. 85, have projected, conducted and carried on, or shall hereafter project, conduct or carry on, or be the proprietor of any Encyclopœdia, Review, Magazine, Periodical work or work published in a series of Books or Parts, or any book whatsoever, and shall have employed or shall employ any persons to compose the same, or any Volumes, Parts, Essays, Articles

or

or Portions, thereof for publication in, or as part of the same, and such Work, Volumes, Parts, Essays, Articles or Portions shall have been, or shall hereafter be composed under such employment on the terms that Copyright therein shall belong to such Proprietor, Projector, Publisher or Conductor, and paid for by such Proprietor, Projector, Publisher or Conductor, the Copyright in every such Encyclopœdia, Review, Magazine, Periodical work and work published in a series of Books or Parts, and in every Volume, Part, Essay, Article and Portion so composed and paid for shall be the property of such Proprietor, Projector, Publisher or Conductor, who shall enjoy the same rights as if he were the actual author thereof and shall have such term of Copyright therein as is given to the authors of Books by this Act, except only that in the case of Essays, Articles or Portions forming part of and first published in Reviews, Magazines or other Periodical works of a like nature after the term of twenty-eight years from the first publication thereof respectively the right of publishing the same in a separate form shall revert to the author for the remainder of the term given by this Act. Provided always, that during the term of twenty-eight years the said Proprietor, Projector, Publisher or Conductor shall not publish any such Essay, Article or Portion separately or singly without the consent previously obtained of the author thereof or his assigns : Provided also, that nothing herein contained shall alter or affect the right of any person who shall have been or shall be so employed as aforesaid to publish any such his composition in a separate form who by any contract, express or implied, may have reserved or may hereafter reserve to himself such right, but every author reserving, retaining or having such right shall be entitled to the Copyright in such composition when published in a separate form according to this Act without prejudice to the right of such Proprietor, Projector, Publisher or Conductor as aforesaid.

XI. And it is hereby enacted, that the Proprietor of the Copyright in any Encyclopœdia, Review, Magazine, Periodical work or other work published

published in a series of Books or Parts shall be entitled to all the benefits of the Registration in the Office of the Secretary to the Government of India for the Home Department, under this Act, on entering in the said Book of Registry the title of such Encyclopœdia, Review, Periodical work or other work published in a series of Books or Parts, the time of the first publication of the first Volume, Number or Part thereof, or of the first Volume, Number or Part first published after the passing of this Act in any such work which shall have been published heretofore, and after the passing of the said Act of Parliament 3 and 4, William 4, C. 85, and the name and place of abode of the Proprietor thereof and of the Publisher thereof when such Publisher shall not also be the Proprietor thereof.

XII. And it is enacted, that all copies of any Book wherein there shall be Copyright, and of which entry shall have been made in the said Registry Book and which shall have been unlawfully printed without the consent of the Registered Proprietor of such Copyright in writing under his hand first obtained shall be deemed to be the property of the Proprietor of such Copyright and who shall be registered as such, and such Registered Proprietor shall, after demand thereof in writing, be entitled to sue for and recover the same or damages for the detention thereof.

XIII. And it is enacted, that if the case be within the jurisdiction of any of the Courts of Judicature established by Her Majesty's Charter, such Registered Proprietor shall be entitled to sue for and recover such copies or damages for the detention thereof in an action of Detinue, from any party who shall detain the same, or to sue for and recover damages for the conversion thereof in an action of Trover, and that if the case be within the jurisdiction of any Zillah Court or other local Court as aforesaid, the Registered Proprietor shall be entitled to sue for and recover such copies or damages for the detention or conversion thereof, in such

form as is in use in the said Zillah or other local Courts for the recovery of specific personal property or damages for the detention or conversion thereof.

XIV. And it is enacted, that no Proprietor of Copyright in any book first published after the passing of the said Act of Parliament 3 and 4, Wm. 4, C. 85, shall maintain under the provisions of this Act any action or suit at law or in equity, or any summary proceeding in respect of any infringement of such Copyright unless he shall before commencing such action, suit or proceeding have caused an entry to be made in the Book of Registry at the Office of the said Secretary of such book pursuant to this Act. Provided always, that the omission to make such entry shall not affect the Copyright in any book, nor the right to sue or proceed in respect of the infringement thereof except the right to sue or proceed in respect of the infringement thereof under the provisions of this Act.

XV. And it is enacted, that if any action or suit shall be commenced or brought in any of the Courts of Judicature established by Her Majesty's Charter against any person or persons whomsoever for doing or causing to be done any thing in pursuance of this Act the defendant or defendants in such action may plead the general issue and give the special matter in evidence; and if upon such action a verdict shall be given for the defendant or the plaintiff shall become nonsuited or discontinue his action, then the defendant shall have and recover his full costs for which he shall have the same remedy as a defendant in any case by law hath in the said last-mentioned Courts.

XVI. And it is enacted, that all actions, suits, bills, indictments, informations and other criminal proceedings for any offence which shall be committed against this Act shall be brought, sued and commenced within twelve calendar months next after such offence committed, or else the same shall be void and of none effect.

XVII. Provided

XVII. Provided always and it is enacted, that nothing in this Act contained shall affect, alter or vary any right subsisting at the time of passing this Act except as herein expressly enacted; and all contracts, agreements and obligations made and entered into before the passing of this Act and all remedies relating thereto, shall remain in full force, any thing herein contained to the contrary notwithstanding.

## SCHEDULE.

### No 1.

Original Entry of Proprietorship of Copyright of a Book.

| Time of making the Entry. | Title of Book. | Name of the Publisher and Place of Publication. | Name and Place of abode of the Proprietor of the Copyright. | Date of First Publication. |
|---|---|---|---|---|
| | | | | |

No. 2.

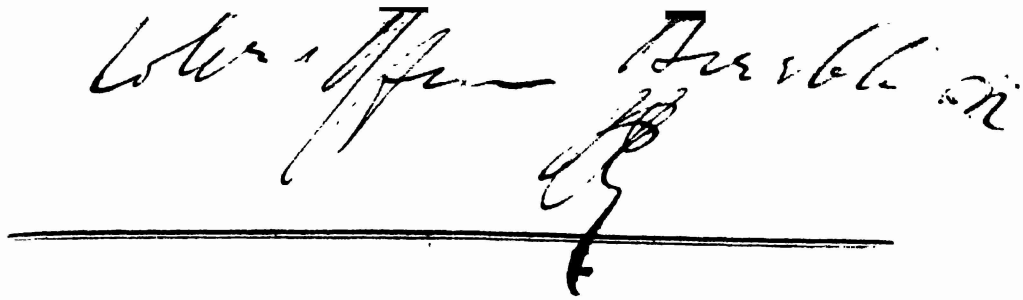
## ACT No. XX. OF 1847.

### No. 2.

### Form of Entry of Assignment of Copyright in any Book previously registered.

| Date of Entry. | Title of Book. | Assigner of the Copyright. | Assignee of the Copyright. |
|---|---|---|---|
| | (Set out the Title of the Book and refer to the page of the Registry Book in which the original Entry of the Copyright thereof is made.) | | |

Calcutta, 1848:—Printed at the Military Orphan Press, by W. Ridsdale.



# ACT No. XXI. OF 1847.

***Passed by the Right Hon'ble the Governor General of India in Council on the 18th of December, 1847.***

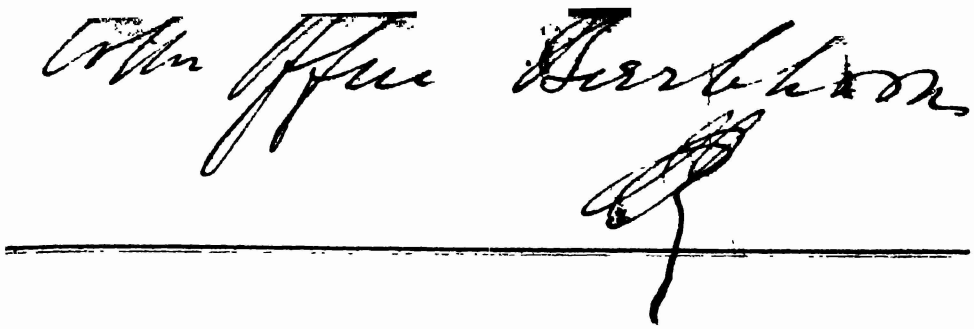
*An Act for the improvement of the Administration of Justice and despatch of Business in the Supreme Court of Judicature at Bombay.*

I. IT is hereby enacted, that from and after the passing of this Act, it shall be lawful for any one of the Judges of the Supreme Court of Judicature at Bombay when occasion shall so require to sit apart from the other Judges or Judge, as the case may be, of the same Court for the despatch of the Criminal Business of the said Court, at the same time when the other Judges or Judge, as the case may be, of the said Court shall be sitting for the despatch of Business in the said Supreme Court, and that all Proceedings whatever so had by and before such Judge, so sitting apart for the purpose aforesaid, shall be good, valid and effectual in the Law to all intents and purposes as fully as if the said Proceedings were had before all the Judges of the said Court sitting as a Court of Oyer and Terminer and Gaol Delivery under the Charter of the said Court.

II. And it is hereby further enacted, that all business of what nature or kindsoever which the said Supreme Court of Judicature at Bombay

Bombay may or shall have power to transact in Term, it shall in like manner have power to transact out of Term, and that all Proceedings whatever before the said Court out of Term, shall be as good, valid and effectual in the Law to all intents and purposes as fully as if the said Proceedings were had in Term; and that all Rules and Orders of the said Court as to all Judgments, Executions or other Proceedings in Term, shall be applicable and shall be applied to all Judgments, Executions or other Proceedings given, issued or had out of Term, as near as the same can be made applicable thereto, and the said Court shall issue such new Rules and Orders as may be necessary for the purpose of giving full effect to the provisions in this Act contained.

Calcutta, 1848:—Printed at the Bengal Military Orphan Press, by W. Ridsdale.



# ACT No. XXII. OF 1847.

***Passed by the Right Hon'ble the Governor General of India in Council on the 18th of December, 1847.***

*To enable the Commissioners who may be appointed under Act XVI. of 1847 to purchase and hold real or personal property for the Improvement of the Town of Calcutta.*

WHEREAS by Act XVI. of 1847, entitled an Act for constituting Commissioners for the Improvement of the Town of Calcutta, partly by appointment of the Government and partly by election of the Rate-payers, provision was made for the appointment and election of such Commissioners, or in default of election, for the appointment of the whole of such Commissioners:

And whereas it is expedient, that provision should be made to enable such Commissioners to purchase and hold real or personal property for the purposes aforesaid in manner hereinafter mentioned:

And whereas it is probable that benevolent and public spirited individuals, with the view of contributing to the improvement and adornment

ment of the said Town may be desirous of settling real or personal property by Deed or Will upon such Commissioners:

I. It is therefore enacted, that the said Commissioners shall be Trustees for and on behalf of the Government of Fort William in Bengal and of the inhabitants of Calcutta, and shall sue and be sued at Law and in Equity in Her Majesty's Supreme Court of Judicature at Fort William by the name of the Commissioners for the Improvement of the Town of Calcutta, and shall have a common seal, and shall have power to take, purchase and hold lands, tenements, hereditaments, goods, chattels and other property, as such Trustees for the purposes aforesaid.

II. And it is enacted, that whenever it shall appear to the said Commissioners, or a majority of them, that it is necessary they should purchase any houses, buildings or grounds for the purposes aforesaid, the said Commissioners shall represent the same to the Governor of Bengal, and if he shall consent thereto, but not otherwise, shall enter into treaties for the purchase of such houses, buildings or grounds with the owners thereof, and in case they shall not be able to come to agreement with such owners or the amount of compensation shall not be settled by arbitration as hereinafter provided, then the said Commissioners shall apply to the Sheriff of Calcutta to summon a Jury, and the said Sheriff shall forthwith summon a Jury in manner hereinafter mentioned, to assess the price which the said Commissioners shall pay to the said owner or owners for the purchase of such houses, buildings and grounds with all appurtenances as aforesaid.

III. And whereas it is expedient to make provision for those cases in which the said Commissioners may be able to purchase lands, buildings or tenements by agreement: it is enacted, that it shall and may be lawful for the said Commissioners to agree with the owners of any lands, buildings or tenements by this Act authorized to be taken and which

shall

shall be required for the purposes of this Act, and with all parties having any estate or interest in such lands, buildings or tenements, or by this Act or by any other authority or power enabled to sell and convey the same, for the absolute purchase of any such lands, buildings or tenements, or such parts thereof as they shall think proper, and of all estates and interests in such lands of what kindsoever.

IV. And it is enacted, that it shall and may be lawful for all parties being seized, possessed of, or entitled to any such lands, buildings or tenements, or any estate or interest therein, to sell and convey or release the same to the said Commissioners and to enter into all necessary agreements for that purpose, and particularly it shall be lawful for all or any of the following parties so seized, possessed or entitled as aforesaid so to sell, convey or release (that is to say) all corporations, tenants in tail, or for life, married women seized in their own right or entitled to dower, guardians, committees of lunatics and idiots, trustees or feofees in trust for charitable or other purposes, executors and administrators, and all parties for the time being entitled to the receipt of the rents and profits of any such lands in possession, or subject to any estate in dower, or to any lease for life or for lives, or for years, or any less interest, and the power so to sell and convey or release as aforesaid, may lawfully be exercised by all such parties not only on behalf of themselves and their respective Heirs, Executors, Administrators and Successors, but also for and on behalf of every person entitled in reversion, remainder or expectancy after them, or in defeasance of the estates of such parties, and as to such married women whether they be of full age or not as if they were sole and of full age, and as to such guardians on behalf of their wards, and as to such committee on behalf of the lunatics and idiots of whom they are the committees respectively, and that to the same extent as such wives, wards, lunatics and idiots respectively could have exercised the same power under the authority of this Act if they had respectively been under no disability, and as to such Trustees, Executors and Administrators

trators on behalf of their cestui-que trusts whether infants, issue unborn, lunatics, femes covert or other persons, and that to the same extent as such cestui-que trusts respectively could have exercised the same powers under the authority of this Act if they had respectively been under no disability.

V. And it is enacted, that the purchase money, consideration, or compensation to be paid or given for any lands, buildings or tenements to be purchased or taken from any party under any disability, or incapacity and not having any power to sell or convey such lands except under the provisions of this Act, and the compensation to be paid for any permanent damage or injury to any such lands, buildings or tenements shall in all cases be determined by the verdict of a jury to be summoned as hereinafter provided.

VI. And it is enacted, that it shall be lawful for any person seized in fee or entitled absolutely for his own benefit to any lands, buildings or tenements authorized to be purchased for the purposes of this Act to sell and convey such lands, buildings or tenements, or any part thereof, unto the said Commissioners in consideration of an annual rent-charge payable by the said Commissioners, but except as aforesaid the consideration to be paid for the purchase of any such lands, buildings or tenements, or for any damage done thereto, shall be in a gross sum.

VII. And it is enacted, that the yearly rent reserved by any conveyance of lands, buildings or tenements purchased by the said Commissioners for the purposes of this Act shall be charged on the rates hereinafter authorized to be raised and levied, and shall be paid by the said Commissioners as such rents become payable, and if at any time any such rents be not paid within thirty days after they so become payable, and after demand thereof in writing, the person to whom any such rent shall be payable, may recover the same from the said Commissioners

missioners with costs of suit by action of debt in the said Supreme Court.

VIII. And it is enacted, that when the said Commissioners shall require to purchase or take any of the lands, buildings or tenements which by this Act they are authorized to purchase or take, they shall give notice thereof to all the parties interested in such lands, or to the parties enabled by this Act to sell and convey or release the same or such of the said parties as shall after diligent inquiry be known to the said Commissioners, and by such notice shall demand from such parties the particulars of their estate and interest in such lands and of the claims made by them in respect thereof, and every such notice shall state the particulars of the lands so required, and that the said Commissioners are willing to treat for the purchase thereof, and as to the compensation to be made to all parties for the damage that may be sustained by them by reason of the execution of the works.

IX. And it is enacted, that all notices required to be served by the said Commissioners upon the parties interested in or entitled to sell any such lands, buildings or tenements shall either be served personally on such parties, or left at their last usual place of abode if any such can after diligent inquiry be found, and in case any such parties shall be absent from the said Town or cannot be found after diligent inquiry, such notices shall be left with the occupier of such lands, or if there be no such occupier shall be affixed upon some conspicuous part of such lands.

X. And it is enacted, that if the party claiming compensation desire to have the same settled by arbitration, and signify such desire by notice in writing to the said Commissioners before they have issued their warrant to the Sheriff to summon a jury in respect of such lands under the provisions hereinafter contained, stating in such notice the nature of the

the interest in respect of which such party claims compensation, and the amount of the compensation so claimed, the same shall be so settled by arbitration accordingly, but unless the party claiming compensation shall as aforesaid signify his desire to have the question of such compensation settled by arbitration, or if when the matter shall have been referred to arbitration the arbitrators or the umpire shall for three months have failed to make their or his award, or if no final award shall be made, the question of such compensation shall be settled by the verdict of a jury as hereinafter provided.

XI. And it is enacted, that when any question of disputed compensation by this Act authorized or required to be settled by arbitration, shall have arisen then unless both parties shall concur in the appointment of a single arbitrator, each party on the request of the other party shall nominate and appoint an arbitrator to which two arbitrators such dispute shall be referred, and every appointment of an arbitrator shall be made on the part of the said Commissioners under the hands of two of the said Commissioners, or of their Clerk duly authorized by such two Commissioners, and on the part of any other party under the hand of such party, or if such party be a corporation aggregate under the common seal of such corporation, and such appointment shall be delivered to the arbitrator or arbitrators, and shall be deemed a submission to arbitration on the part of the party by whom the same shall be made, and after any such appointment shall have been made neither party shall have power to revoke the same without the consent of the other, nor shall the death of either party operate as a revocation, and if after any such dispute shall have arisen and after a request in writing in which shall be stated the matter so required to be referred to arbitration, shall have been served by the one party on the other party to appoint an arbitrator, such last mentioned party fail within fourteen days after such service to appoint such arbitrator, then upon such failure the party making the request, and having himself appointed an arbitrator may appoint such

arbitrator

arbitrator to act on behalf of both parties, and such arbitrator may proceed to hear and determine the matters which shall be in dispute, and in such case the award or determination of such single arbitrator shall be final.

XII. And it is enacted, that if before the matters so referred shall be determined, any arbitrator appointed by either party shall die or become incapable to act, the party by whom such arbitrator was appointed may nominate and appoint in writing some other person to act in his place, and if for the space of seven days after notice in writing from the other party for that purpose he shall fail to do so, the remaining or other arbitrator may proceed to hear and determine the matters which shall be in dispute, and every arbitrator who shall be so substituted as aforesaid shall have the same power and authorities as were vested in the former arbitrator at the time of such his death or disability aforesaid.

XIII. And it is enacted, that where more than one arbitrator shall have been appointed such arbitrators shall before they enter upon the matters referred to them, nominate and appoint by writing under their hands an umpire to decide on any such matters on which they shall differ, or which shall be referred to him under the provisions of this Act, and if such umpire shall die or become incapable to act, they shall forthwith after such death or incapacity appoint another umpire in his place, and the decision of every such umpire on the matters so referred to him shall be final.

XIV. And it is enacted, that if in either of the cases aforesaid the said arbitrators shall refuse, or shall for seven days after request of either party to such arbitration, neglect to appoint an umpire, any two of the Magistrates of Calcutta shall on the application of either party to such arbitration appoint an umpire, and the decision of such umpire on the matters on which the arbitrators shall differ or which shall be referred to him under this Act shall be final.

XV. And

XV. And it is enacted, that when a single arbitrator shall have been appointed as hereinbefore provided, and such arbitrator shall die or become incapable to act before he shall have made his award, the matters referred to him shall be determined by arbitrators under the provisions of this Act in the same manner as if such arbitrator had not been appointed.

XVI. And it is enacted, that if where more than one arbitrator shall have been appointed either of the arbitrators refuse, or for seven days after the day of his appointment shall neglect to act, the other arbitrator may proceed to hear and determine the matters in dispute, and the decision of such other arbitrator shall be as effectual as if he had been the single arbitrator appointed by both parties.

XVII. And it is enacted, that if where more than one arbitrator shall have been appointed and where neither of them shall refuse or neglect to act as aforesaid, but such arbitrators shall fail to make their award within twenty-one days after the day on which the last of such arbitrators shall have been appointed, or within such extended time, (if any) as shall have been appointed for that purpose by both such arbitrators under their hands, the matters referred to them shall be determined by the umpire to be appointed as aforesaid.

XVIII. And it is enacted, that the said arbitrators or their umpire may call for the production of any documents in the possession or power of either party which they or he may think necessary for determining the question in dispute, and may examine the parties or their witnesses on oath or solemn affirmation, and administer the oaths and solemn affirmation necessary for that purpose.

XIX. And it is enacted, that before any such arbitrator or umpire as aforesaid shall enter into the consideration of any matters referred to him he shall in the presence of a Magistrate of Calcutta make and subscribe the following declaration, that is to say—

I, A. B.,

I, A. B., do solemnly and sincerely declare that I will faithfully and honestly to the best of my skill and ability hear and determine the matters referred to me under the provisions of the Act XXII. of 1847

A. B.

Made and subscribed
in the presence of C. D.

And such declaration shall be annexed to the award when made, and if any arbitrator or umpire having made such declaration shall wilfully act contrary thereto, he shall be deemed guilty of a misdemeanour.

XX. And it is enacted, that all the costs of any such arbitration and incident thereto, shall be settled by the said arbitrators and shall be borne by the said Commissioners, unless the arbitrators shall award the same or a less sum than shall have been offered by the said Commissioners in which case each party shall bear their own costs incident to the said arbitration, and the costs of the said arbitrators shall be borne by the parties in equal proportions.

XXI. And it is enacted, that the said arbitrators or the said umpire as the case may be, shall deliver their award in writing to the said Commissioners, and the said Commissioners shall retain the same, and on demand made at the office of their Clerk shall forthwith at their own expense furnish a copy thereof to the other party to the arbitration, and shall at all reasonable times when thereunto required produce the said award and allow the same to be inspected or examined at the office of their said Clerk by such party or any person appointed by him for that purpose.

XXII. And it is enacted, that the submission to any such arbitration as aforesaid may be made a rule of the said Supreme Court on the application of either or any party thereto, and may be enforced against all necessary parties by any rule, order or decree of the said Court notwithstanding

withstanding that any or either of the said parties are not otherwise subject to the jurisdiction of the said Court.

XXIII. And it is enacted, that no award made with respect to any question referred to arbitration under the provisions of this Act shall be set aside for irregularity or error in matter of form.

XXIV. And it is enacted, that in every case in which a dispute or difference shall arise between the said Commissioners, and any person or persons whose property they may intend or desire to purchase for the purposes of this Act as to the amount of compensation to be paid for the said property which difference and dispute either of the said parties shall refuse to settle by arbitration the said Commissioners shall issue a warrant in writing signed by any one of them and sealed with their common seal to the Sheriff of Calcutta, requiring him to summon a jury for the purpose of settling the said difference or dispute; and if such Sheriff be interested in the matter in dispute such warrant shall be addressed and sent to the Coroner of Calcutta, and if the said Sheriff and the said Coroner be both of them interested in the said matter then the said warrant shall be addressed and sent to the last person who shall have filled the office of Sheriff of Calcutta who is not interested in the said matter and who is at the time of the issuing the said warrant an inhabitant of the said Town of Calcutta, and every such Sheriff, Coroner, or Ex-Sheriff shall have power if he think fit to appoint a Deputy or Assessor.

XXV. And it is enacted, that throughout the enactments contained in this Act relative to a reference to a jury where the term Sheriff is used the provisions applicable thereto shall be held to apply to every Coroner or other person lawfully acting in the place of the Sheriff, and in every case in which any such warrant as aforesaid shall have been directed to any other person than the said Sheriff of Calcutta, such

Sheriff

Sheriff shall immediately on receiving notice of the delivery of the warrant on application being made to him for that purpose deliver over to the person to whom the said warrant shall have been directed, or to any other fit and proper person appointed by him to receive the same the Jurors' book and Special Jurors' list for the Town of Calcutta.

XXVI. And it is enacted, that upon the receipt of such warrant as aforesaid the Sheriff shall summon a jury of ten indifferent persons duly qualified to act as common jurymen in Her Majesty's Supreme Court of Judicature aforesaid, to meet at a convenient time and place to be appointed by him for that purpose, such time not being less than fourteen nor more than twenty-one days after the receipt of such warrant, and such place not being more than two miles from the lands, buildings or tenements concerning and relating to which the said difference or dispute shall have arisen unless by consent of the parties interested some other time and place be agreed upon and settled, and the said Sheriff shall forthwith give notice to the said Commissioners of the time and place so appointed by him.

XXVII. And it is enacted, that out of and from the number of jurors appearing upon such summons as aforesaid, a jury of five persons shall be drawn by the said Sheriff in such number and form as juries for trials of offences before the said Supreme Court are by the rules and orders of the said Court required to be drawn, and if a sufficient number of the jurymen so summoned as aforesaid do not appear in obedience to such summons as aforesaid the Sheriff shall return other indifferent men duly qualified as aforesaid of the bye-standers or others that can speedily be procured to make up the jury to the said number of five persons, and the said Commissioners and all other parties interested in the said lands, buildings or tenements may have and make their challenges against any of the said jurymen according to the course and practice of the said Supreme

Supreme Court, but neither the said Commissioners nor any of the said parties interested as aforesaid shall challenge the array.

XXVIII. And it is enacted, that in every such inquiry as aforesaid the said Sheriff shall preside, and the party or parties claiming compensation from the said Commissioners shall be deemed the plaintiff or plaintiffs, as the case may be, and shall have all such rights and privileges as the plaintiff is entitled to in the trial of actions at law in the Court of Queen's Bench at Westminster, and if the said Commissioners or any persons interested in the said lands, buildings or tenements so request in writing, the said Sheriff shall summon before him, any person who shall by the said Commissioners, or any person interested as aforesaid be considered necessary to be examined as a witness touching the matters in question, and on the like request the said Sheriff shall order the said jury to view the place or matter in controversy in like manner as views may be had in the trial of actions at law in the Court of Queen's Bench at Westminster.

XXIX. And it is enacted, that if the said Sheriff make default in any matter hereinbefore required to be done by him in relation to any such trial or inquiry as aforesaid, he shall forfeit and pay the sum of Five Hundred Rupees for every such offence, and such penalty shall be recoverable by the said Commissioners by an action of debt or on the case in the said Supreme Court, and if any person summoned or returned upon any jury under this Act, whether common or special, do not appear, or if appearing do refuse to make such lawful oath or affirmation as the said Sheriff may require, or in any other manner wilfully neglect his duty, he shall unless he shew reasonable excuse for the said default or neglect to the satisfaction of the said Sheriff forfeit a sum not exceeding One Hundred Rupees, and every such penalty as aforesaid payable by a Sheriff or juryman as aforesaid shall be applied in satisfaction of the costs of the said inquiry so far as the same will extend, and

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in addition to the penalty hereby imposed as aforesaid every such juryman shall in all respects be subject to the same regulations, pains and penalties as if such jury were returned for a trial in the said Supreme Court.

XXX. And it is enacted, that if any person who shall have been duly summoned to give evidence upon any such enquiry, and to whom a tender of his reasonable expences shall have been made fail to appear at the time and place specified in the summons without sufficient cause, or if any person whether summoned or not who shall appear as a witness on any such inquiry refuse to be examined on oath or affirmation touching the subject matter in dispute every person so offending shall forfeit and pay to the party aggrieved thereby a sum not exceeding One Hundred Rupees, and that any person examined on oath or affirmation touching the subject matter in dispute who shall wilfully and falsely state any matter which if wilfully and falsely stated by such person in any Court of Justice in which such subject matter might be in dispute, would amount to wilful and corrupt perjury, shall be guilty of wilful and corrupt perjury.

XXXI. And it is enacted, that the said Commissioners shall give to all parties interested in any lands, buildings, or tenements concerning or relating to which an inquiry hath been appointed to be held by the said Sheriff notice of the time and place of such inquiry, not less than ten days before the same is to be held, and the said notice shall be in writing, and shall be served on each of the said parties personally or left at his last known place of abode in the said Town, or if he have no such place of abode then the said notice of every such person shall be twice publicly advertised in one or more of the Newspapers published within the said Town.

XXXII. And it is enacted, that if at any such inquiry any party claiming compensation shall fail to appear in person or by his Counsel or

Agent, such inquiry shall not be proceeded with so far as concerns the compensation claimed by such absent party, but the compensation to be paid by the said Commissioners to such absent party shall be settled and determined by a Surveyor to be named and appointed by any two of the Magistrates of Calcutta without prejudice to such inquiry then and there proceeding before such Sheriff so far as concerns any compensation claimed by any other party or parties interested in such compensation in respect of the same premises who shall so appear.

XXXIII. And it is enacted, that before any jury shall proceed on any such inquiry as aforesaid to inquire of and assess compensation or damages in respect of which their verdict is to be given they shall make oath, or if they object to make oath they shall make a solemn affirmation that they will truly and faithfully enquire of and assess such compensation or damages, and the said Sheriff shall administer such oaths and affirmations as well as the oaths and affirmations of all persons called upon to give evidence.

XXXIV. And it is enacted, that where such inquiry as aforesaid shall relate to the value of any lands, buildings, or tenements to be purchased, and also to compensation claimed for injury done or to be done to any other lands, buildings, or tenements held therewith the jury shall deliver their verdict separately for the sum of money to be paid for the purchase of the lands, buildings, or tenements required by the said Commissioners, or of any interest therein belonging to the party or parties with whom the question of disputed compensation shall have arisen, or which under the provisions herein contained he is enabled to sell or convey, and for the sum of money to be paid by way of compensation for the damage if any sustained or to be sustained by the said party or parties by reason of the severing of the lands, buildings, or tenements taken from the other lands, buildings, or tenements of the said party or parties, or otherwise injuriously affecting such last mentioned lands, buildings or tenements by the exercise of the powers conferred by this Act.

XXXV. And

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XXXV. And it is enacted, that the Sheriff before whom such inquiry as aforesaid shall be held shall give judgment for the purchase money or compensation assessed by such jury as aforesaid, and the verdict and judgment shall thereupon be signed by such Sheriff, and being so signed shall be delivered to and kept by the Keeper of the Records in the said Supreme Court among the Records of the said Supreme Court, and such verdicts and judgments shall be deemed Records, and the same or true copies or exemplifications thereof shall be good evidence in all Courts, and elsewhere, and all persons may inspect the said verdicts and judgments, and may have copies or exemplifications thereof, or extracts therefrom, on paying for each inspection of any such verdict and judgment the sum of Eight Annas, and for every one hundred words copied or extracted therefrom Four Annas, which copies, exemplifications or extracts the said Keeper of the Records is hereby required to make out and sign and certify the same to be true.

XXXVI. And it is enacted, that on every such inquiry before a jury as aforesaid where the verdict of the jury shall be given for a greater sum than the sum previously offered by the said Commissioners all the costs of such inquiry shall be borne by the said Commissioners, but if the verdict of the jury shall be for the same or a less sum than the sum previously offered by the said Commissioners one-half of the costs of summoning, impanelling and returning the jury, and of taking the inquiry and recording the verdict and judgment thereon shall be defrayed by the parties claiming the said compensation or purchase money, and the other half by the said Commissioners, and each party shall bear his own costs other than as aforesaid incident to such inquiry.

XXXVII. And it is enacted, that the costs of any such inquiry as aforesaid shall in case of differences arising regarding the same be settled by the Taxing Officer of the said Supreme Court on the application of either party, and such costs shall include all reasonable costs, charges

charges and expences incurred in summoning, returning and impanelling the jury taking the inquiry, the attendance of witnesses, the employment of Counsel and Attornies, the recording the verdict and judgment thereon and otherwise incident to such inquiry.

XXXIII. And it is enacted, that if any such costs shall be payable by the said Commissioners, and if within seven days after demand duly made at the Office of the Clerk of the said Commissioners such costs be not paid to the party entitled to receive the same they may and shall be recoverable by distress, and on application to any Magistrate of Calcutta he shall issue his warrant accordingly, and if any such costs shall be payable by the owner of any lands, buildings, or tenements, or if any interest therein the same may be deducted and retained by the said Commissioners out of any money awarded by the jury to such owner or determined by the valuation of a Surveyor under the provision hereinafter contained, and the payment or deposit of the remainder, if any of such money shall be deemed payment and satisfaction of the whole thereof, or if such costs shall exceed the amount of the money so awarded or determined the excess may and shall be recoverable by distress, and on application to any Magistrate of Calcutta he shall issue his warrant accordingly.

XXXIV. And it is enacted, that if either party in such case of disputed compensation as aforesaid desire such question to be tried before a special jury, such question shall be so tried, provided that notice of such desire if given by the other party be given to the said Commissioners before they have issued their warrant as aforesaid to the Sheriff and for that purpose the said Commissioners shall by their warrant to the Sheriff require him to nominate a special jury of five jurors for such trial, and thereupon the Sheriff shall as soon as conveniently may be after the receipt by him of such warrant summon the said Commissioners and the said other party to appear before him by themselves or their Attornies at some convenient time and place to be appointed by him for the purpose

of

of nominating a special jury (not being less than five nor more than eight days from the service of such summons) and at the time and place so appointed the said Sheriff shall proceed to nominate and strike a special jury in the manner in which such juries shall be required by the Rules and Orders of the said Supreme Court for trials in the said Court, except as far as such Rules may be inconsistent with the number of which the juries under this Act are to consist, and the said Sheriff shall appoint a day not later than the eighth day after the striking of such jury for the parties or their agents to appear before him to reduce the number of such jury, and thereof shall give four days notice to the said Commissioners, and the said other party, and on the day so appointed the Sheriff shall proceed to reduce the said special jury to the number of eight in the manner used and accustomed in the said Supreme Court.

XL. And it is enacted, that the special jury on such inquiry as last aforesaid shall consist of five of the said eight who shall first appear on the names being called over, the said Commissioners and the said other party having respectively their lawful challenges against any of the said jurymen, and if a full jury of five do not appear and if after such challenges a full jury of five do not remain then upon the application of the said Commissioners or of the said other party, the Sheriff shall add to the list of such jury the names of any other disinterested persons qualified to act as special or common jurymen in the said Supreme Court who shall not have been previously struck off the aforesaid list, and who may be then in attendance before the said Sheriff, or can speedily be procured so as to complete such special jury, the said Commissioners and the said other party having respectively their lawful challenges against such persons, and the Sheriff shall proceed to the trial and adjudication of the matters in question by such jury, and such trial shall be attended in all respects with the like incidents and consequences, and the like penalties shall be applicable as hereinbefore provided in the case of a trial by a common jury.

XLI. And

XLI. And it is enacted, that any other inquiry than that for the trial of which such special jury may have been struck and reduced as aforesaid may be tried by such jury provided the said Commissioners and all the other parties interested therein respectively shall give their consent to such trial.

XLII. And it is enacted, that where the purchase money or compensation to be paid by the said Commissioners for any lands, buildings or tenements to be purchased or used by the said Commissioners shall be payable to any person who by reason of absence from the Presidency of Bengal is prevented from treating, or who cannot after diligent inquiry be found, or who shall not appear at the time appointed for the inquiry before the jury as hereinafter provided after due notice thereof given to him, such purchase money or such compensation to be paid for any permanent injury to such lands, buildings or tenements shall be such as shall be determined by the valuation of such able practical Surveyor as two of the Magistrates of Calcutta aforesaid shall nominate for that purpose as hereinafter provided.

XLIII. And it is enacted, that upon application of the said Commissioners two of the Magistrates of Calcutta aforesaid, and upon such proof as shall be satisfactory to them that any such party is by reason of absence prevented from treating, or cannot after diligent inquiry be found, or that such party failed to appear on such inquiry before a jury as aforesaid after due notice given to him for that purpose, such Magistrates shall by writing under their hands nominate an able practical Surveyor, approved by the said Commissioners, to determine the amount of such purchase money or compensation as aforesaid, and such Surveyor shall determine the same accordingly, and shall annex to his valuation a declaration in writing signed by him of the correctness thereof.

XLIV. And

XLIV. And it is enacted, that before any such Surveyor shall enter upon the duty of making such valuation as aforesaid he shall in the presence of such Magistrates or one of them, make and subscribe the declaration following at the foot of such nomination by the said Magistrates as aforesaid, that is to say—

I, A. B., do solemnly and sincerely declare, that I will faithfully, impartially and honestly, according to the best of my skill and ability execute the duty of making the valuation hereby referred to me.

A. B.

Made and subscribed
in the presence of

C. D.

And if any such Surveyor shall corruptly make such declaration, or having made such declaration, shall wilfully act contrary thereto he shall be deemed guilty of a misdemeanour.

XLV. And it is enacted, that the said nomination and declaration shall be annexed to the valuation to be made by such Surveyor and shall be preserved together therewith by the Clerk to the said Commissioners, and he shall at all reasonable times produce at his office the said valuation and other documents on demand to the owner of lands, buildings or tenements comprized in such valuation and to all other parties interested therein.

XLVI. And it is enacted, that in estimating the purchase money or compensation to be paid by the said Commissioners in any of the cases aforesaid regard shall be had by the Magistrates, Arbitrators or Surveyors, as the case may be, not only to the value of the lands, buildings or tenements to be purchased by the said Commissioners, but also to the damage if any to be sustained by the owners of the lands, buildings or tenements by reason of the severing of the said lands, buildings

ings or tenements taken from other lands, buildings or tenements of such owner, or otherwise injuriously affecting such other lands, buildings or tenements by the exercise of the powers of this Act.

XLVII. And it is enacted, that where the compensation payable in respect of any lands, buildings or premises, or any interest therein, shall have been ascertained by the valuation of a Surveyor and deposited as hereafter provided by reason that the owner of or party entitled to convey such lands, buildings and tenements, or such interest therein as aforesaid, could not be found or was absent, and such owner or party shall be dissatisfied with such valuation it shall be lawful for him before he shall have applied as hereinafter provided for payment or investment of the monies so deposited under the provisions herein contained, by notice in writing to the said Commissioners to require the question of such compensation to be submitted to arbitration, and thereupon the same shall be so submitted accordingly in the same manner as in other cases of disputed compensation hereinbefore authorized or required to be submitted to arbitration.

XLVIII. And it is enacted, that the question to be submitted to the arbitrators in the case last aforesaid shall be whether the said sum so deposited as aforesaid by the said Commissioners was a sufficient sum, or whether any and what further sum ought to be paid or deposited by them.

XLIX. And it is enacted, that if the arbitrators shall award a further sum to be paid or deposited by the said Commissioners they shall pay or deposit, as the case may require, such further sum within fourteen days after the making of such award, or in default thereof the same may be recovered with cost by action or suit in the said Supreme Court.

L. And

L. And it is enacted, that if the arbitrators shall determine that the sum so paid or deposited was sufficient the costs of and incident to such arbitration to be determined by the arbitrators, shall be in the discretion of the arbitrators, but if the arbitrators shall determine that a further sum ought to be paid or deposited by the said Commissioners all the costs of and incident to the arbitration shall be borne by the said Commissioners.

LI. And it is enacted, that if any party shall be entitled to any compensation in respect of any lands, buildings or tenements, or of any interest therein which shall have been taken for or injuriously affected by the execution of the works of the said Commissioners, and for which the said Commissioners shall not have made satisfaction under the provisions of this Act, such party may have the same settled either by arbitration or by the verdict of a jury as he shall think fit; and if the said party desire to have the same settled by arbitration it shall be lawful for him to give notice in writing to the said Commissioners of such his desire, stating in such notice the nature of the interest in such lands, buildings or tenements in respect of which he claims compensation and the amount of the compensation so claimed therein, and unless the said Commissioners be willing to pay the amount of the compensation so claimed, and shall enter into a written agreement for that purpose within twenty-one days after the receipt of any such notice from any party so entitled, the same shall be settled by arbitration in the manner herein provided; or if the party so entitled as aforesaid desire to have such question of compensation settled by jury it shall be lawful for him to give notice in writing of such his desire to the said Commissioners, stating such particulars as aforesaid, and unless the said Commissioners be willing to pay the amount of compensation so claimed and enter into a written agreement for that purpose, they shall within twenty-one days after the receipt of such notice issue their warrant to the Sheriff to summon a jury for settling the same in the manner herein provided, and in default thereof they

they shall be liable to pay to the party so entitled as aforesaid the amount of the compensation so claimed, and the same may be recovered by him by action of debt or on the case in the said Supreme Court.

LII. And it is enacted, that so soon as the amount of the purchase money or compensation to be paid by the said Commissioners in respect of any lands, houses, tenements, or hereditaments, or any interest therein, shall be ascertained, fixed, awarded or settled in any of the modes sanctioned and appointed by this Act as aforesaid, if the said lands, houses, tenements, or hereditaments shall have been purchased or taken by the said Commissioners from any person or persons not entitled to sell or convey the same except under the provisions of this Act as being tenant for life or in tail, married women, guardian, committee, trustee, executor or administrator, or person having a partial or qualified interest therein, or who shall refuse to accept such purchase money or compensation, or neglect or fail to make out a title to such lands, houses, tenements, or hereditaments, or to the interest therein claimed by him to the satisfaction of the said Commissioners, or shall refuse to convey or release the same, or shall be absent from the Presidency of Bengal, or cannot after diligent enquiry be found, the said Commissioners are hereby empowered and required forthwith to invest the said purchase money or amount of compensation in some of the Securities or Promissory Notes of the East India Company, commonly called Company's Paper, at the current price of the day, and to deposit the same with the Government Agent at Fort William aforesaid in the name and with the privity of the Accountant General of the said Supreme Court to be placed by him to the account of such Accountant General to the credit of the parties interested, or who may be or become interested in such lands, houses, tenements, or hereditaments, describing both them and the said parties so far as the said Commissioners can do pursuant to the course of proceeding in the said Court under the Rules, Orders and Regulations of the said Court, regarding monies paid into the

the said Court in matters and causes depending before it on its Equity side, and such Securities shall remain so deposited and the interest thereon shall be regularly received by the said Government Agent and credited to the said account, and when and so often as the said interest so received by the said Government Agent shall amount to a sufficient sum for that purpose such interest shall be invested by the said Government Agent from time to time in other such Securities as aforesaid, and such monies, principal and interest, shall remain so invested and deposited until the same be applied under the authority of the said Court upon the petition of the party who would have been entitled to the rents and profits of the lands, houses, tenements, and hereditaments in respect of which such monies shall have been deposited to some one or more of the following purposes, that is to say—In the discharge of any debt or incumbrance affecting the lands, tenements, and hereditaments in respect of which such money shall have been paid or affecting other lands settled therewith to the same, or the like uses, trusts or purposes, or in the purchase of other lands, tenements, or hereditaments to be conveyed, limited and settled upon the like uses, trusts and purposes, and in the same manner as the lands, tenements, or hereditaments in respect of which such money shall have been paid, stood settled, or if such money shall be paid in respect of any buildings taken under the authority of this Act, or injured by the proximity of the works in removing or replacing such buildings or substituting others in their stead, or in payment to any person who shall become absolutely entitled to such money, and until such monies can or shall be so applied, the interest, dividends and annual proceeds of such Company's Paper shall and may upon the like petition and order be paid to the party or parties who would for the time being have been entitled to receive the rents and profits of the said lands, houses, tenements, and hereditaments.

LIII. And

LIII. And it is enacted, that where any purchase money or compensation paid as aforesaid under the provisions of this Act shall have been paid in respect of any lease for a life or lives, or years, or any estate in lands, tenements or hereditaments less than the whole fee simple thereof, or in respect of any reversion dependent on any such lease or estate, it shall be lawful for the said Supreme Court on the petition of any party interested in such money to order that the same shall be laid out, invested, accumulated and paid in such manner as the said Court may consider will give to the parties interested in such money the same benefit therefrom as they might lawfully have had from the lease, estate or reversion in respect of which such money shall have been paid or as near thereto as may be.

LIV. And it is enacted, that upon payment or deposit in manner hereinbefore mentioned of the purchase money or compensation agreed or awarded to be paid in respect of any lands, tenements, or hereditaments purchased or taken by the said Commissioners under the provisions of this Act, the owners of and all parties by this Act enabled to sell or convey such lands, tenements, and hereditaments shall when required so to do by the said Commissioners, duly convey such lands to the said Commissioners, or as they shall direct, and in default thereof, or if such party fail to adduce a good title to such lands, tenements, and hereditaments to the satisfaction of the said Commissioners it shall be lawful for the said Commissioners if they think fit to execute a deed of sale under their common seal, containing a description of the lands, tenements, and hereditaments in respect of which such default shall be made, and reciting the purchase or taking thereof, and the names of the parties from whom the same were purchased or taken, and the payment made in respect thereof, and declaring the fact of such default having been made, and thereupon all the estate and interest in such lands, tenements, and hereditaments of, or capable of being sold and conveyed by the party with

with whom the said Commissioner shall have made such agreement, or to whom such purchase money or compensation shall have been awarded by a jury or by arbitrators, or by a Surveyor appointed by any Magistrate or Magistrates, or as hereinbefore provided shall vest absolutely in the said Commissioners, and as against such parties and all parties on behalf of whom they are hereinbefore enabled to sell and convey the said Commissioners shall be entitled to immediate possession of such lands, tenements, and hereditaments.

LV. And it is enacted, that if the owner of any such lands, tenements, and hereditaments purchased or taken by the said Commissioners, or of any interest therein, on tender of the purchase money or compensation agreed or awarded to be paid in respect thereof, shall refuse to accept the same, or neglect or fail to make out a title to such lands, tenements, and hereditaments, or to the interest therein claimed by him to the satisfaction of the said Commissioners, or if he refuse to convey or release such lands, tenements, and hereditaments as directed and required by the said Commissioners, or if any such owner be absent from the Presidency of Bengal, or cannot after diligent inquiry be found or fail to appear on the inquiry before a jury as hereinbefore provided, it shall be lawful for the said Commissioners to place the purchase money or compensation payable in respect of such lands, tenements, and hereditaments, or any interest therein to the credit of the parties interested in such lands, tenements, and hereditaments (the said parties being described so far as the said Commissioners can describe them) subject to the controul and disposition of the said Supreme Court, and it shall be lawful for the said Commissioners if they shall think fit to execute a deed of sale under their common seal containing a description of the lands, tenements, and hereditaments in respect whereof such purchase money or compensation shall have been placed to credit, and declaring the circumstances under which and the names of the parties to whose credit

such purchase money or compensation shall have been placed, and thereupon all the estate and interest in such lands, tenements, and hereditaments of the parties for whose use and in respect whereof such purchase money or compensation shall have been placed to credit, shall vest absolutely in the said Commissioners and as against such parties they shall be entitled to immediate possession of such lands, tenements, and hereditaments.

LVI. And it is enacted, that upon the application by petition of any party making claim to the money so placed to credit as last aforesaid, or any part thereof, or to the lands, buildings, or tenements in respect whereof the same shall have been so placed to credit, or any part of such lands, buildings, or tenements, or any interest in the same the said Supreme Court on its Equity side may in a summary way as to the said Court shall seem fit, order such money to be laid out or invested in Company's Paper and deposited as aforesaid with the said Government Agent, and may order distribution thereof or payment of the interest thereof according to the respective estates, titles or interests of the parties making claim to such money, lands, buildings, or tenements, or any part thereof, and may make such other order in the premises as to the said Court shall seem just.

LVII. And it is enacted, that the said Commissioners shall not be deemed necessary or competent parties to any such proceeding in the said Supreme Court, but that due notice shall be given according to the course and practice of the said Court in matters before it by summary petition by the party or parties petitioning to all other parties interested to whom it shall be competent to appear in such summary suit to defend and maintain their respective right and interests.

LVIII. And it is enacted, that the said Commissioners may with the

the consent of the said Governor sell and dispose of any lands or tenements vested in them by virtue of this Act, or any part thereof either together or in parcels as they may find most convenient and advantageous and the money to arise and to be produced by such sale shall be applied to such of the purposes of this Act or Act No. XVI. of 1847, as the said Commissioners shall think fit, and the purchaser of such lands or tenements shall not be answerable or accountable for any misapplication or non-application of such purchase money; and for the completing and carrying any such sale into effect the said Commissioners may make and execute a conveyance of the lands and tenements sold and disposed of as aforesaid unto the purchaser thereof and such conveyance shall be under the common seal of the said Commissioners.

LIX. And it is enacted, that in every conveyance of lands to be made by the said Commissioners under this Act the word "grant" shall operate as express covenants by the said Commissioners for themselves and their successors with the respective grantees therein named, and their Successors, Heirs, Executors, Administrators or Assigns, as the case may be, according to the quality and nature of such grants, and of the estate or interest therein expressed to be thereby conveyed as follows except as far as the same shall be restrained or limited by express words contained in any such conveyance (that is to say) A covenant that notwithstanding any act or default done by the said Commissioners, they were at the time of the execution of such conveyance under and by virtue of the provisions of this Act possessed of the lands or promises granted thereby for an indefeasible estate of inheritance in fee simple free from all encumbrances done or occasioned by them or otherwise for such estate or interest as therein expressed to be thereby granted free from encumbrances done or occasioned by them.

LX. And in order to raise money for defraying the expences incurred

red or to be incurred by the said Commissioners in carrying into effect the provisions of this Act or of Act No. XVI. of 1847 it is enacted, that it shall be lawful for the said Commissioners, and they are hereby authorized subject in each case to the approval of the Governor aforesaid to be signified in writing, to borrow and take up at interest on the credit of the rates, taxes and duties authorized to be made, levied and received by the said Commissioners from any person who shall be willing to advance the same the sum and sums of money necessary for defraying the costs, charges and expences incurred or to be incurred by the said Commissioners in carrying into effect with the least possible delay the provisions of this Act or of Act No. XVI. 1847, and for securing the repayment of such sum or sums of money with such interest thereon as shall be agreed upon between the said Commissioners, and the person or persons lending or advancing the same, the said Commissioners may mortgage and assign over the said rates, taxes, tolls and duties, or any part thereof to the person or persons who shall advance such money, or to a Trustee or Trustees on his or their behalf as security for the money so to be borrowed, together with interest upon the same, and no assessment, tax, toll or duty over which any such mortgage shall have been granted shall be repealed in whole or in part until such mortgage shall be paid off unless by the consent in writing of such mortgagee.

**LXI.** And it is enacted, that in order to discharge the principal money of any such sum or sums of money as shall be borrowed on security of the assessments, taxes and duties aforesaid, it shall be lawful for the said Commissioners, and they are hereby authorized and required yearly and every year to deduct, appropriate and set apart, and apply out of the rates aforesaid such a sum of money as shall be in proportion to one-thirtieth part of the money borrowed or secured, and which at that time shall remain due and secured as aforesaid upon the said assessments, taxes and duties as and for a Sinking Fund to be applied in paying off and discharging

discharging the principal monies so borrowed or secured, and from time to time cause the amount of such Sinking Fund to be invested in the Securities of the East India Company called Company's Paper and such Company's Paper to be deposited from time to time in the hands of the Government Agent, who is hereby empowered and required to increase the same by investing the interest payable thereon as the same shall become due and payable in the purchase of other Company's Paper, and so on from time to time so that the said Sinking Fund shall accumulate at compound interest until the same shall be of sufficient amount to pay off the said principal debts, or one of them or some part of some one of them at which time the same shall be so applied in paying off the same in manner hereinafter mentioned.

**LXII.** And it is enacted, that every mortgage of assessments, taxes and duties authorized to be made under the provisions of this Act shall be by deed in which the consideration shall be truly stated, and every such deed shall be under the common seal of the said Commissioners, and signed by three of them at the least at one of their annual, quarterly or special meetings and may be according to the form in the Schedule [A] to this Act annexed, or to the like effect, and the respective mortgagees shall be entitled one with another to their respective proportions of the assessments, taxes, tolls and duties comprised in such mortgages according to the respective sums which in such mortgages are mentioned to be advanced by such mortgagees respectively, and to be repaid the sums so advanced with interest without any preference one above another by reason of priority of advance, or of the date of any such mortgage respectively.

**LXIII.** And it is enacted, that the expenses of every mortgage shall from time to time be defrayed by the said Commissioners out of the money raised by the same.



**LXIV.** And

LXIV. And it is enacted, that a Register of all the said mortgages shall be kept by the Clerk of the said Commissioners, and within fourteen days after the date of any mortgage an entry or memorial specifying the number and date of such mortgage, and the sum secured thereby and the names of the parties thereto with their proper additions shall be made in the said Register, and the said Register may be perused at all reasonable times by any mortgagee or by any person interested in any such mortgage without fee or reward.

LXV. And it is enacted, that from time to time any party entitled to any such mortgage may transfer his right and interest therein to any other person, and every such transfer shall be by deed wherein the consideration shall be truly stated, and every such transfer may be according to the form in the Schedule B to this Act annexed or to the like effect.

LXVI. And it is enacted, that within thirty days after the date of every such transfer if executed within the territories subject to the Government of the East India Company, or otherwise, within thirty days after the arrival thereof within the said territories, it shall be produced to the said Clerk, and thereupon the said Clerk shall make an entry or memorial thereof in the Register aforesaid in the same manner as in the case of an original mortgage, and for such entry the said Clerk may demand and receive a fee not exceeding Two Rupees, and after such entry every such transfer shall entitle the transferee, his Executors, Administrators and Assigns to the full benefit of the original mortgage, and the principal and interest secured thereby, and such transferee may in like manner assign or transfer the same again and toties quoties, and it shall not be in the power of any person except the person to whom the said mortgage shall have been last transferred, his Executors, or Administrators or Assigns to make void, release or discharge the original mortgage, or the monies due thereon or secured thereby.

LXVII. And

LXVII. And it is enacted, that from and after the payment or satisfaction of all the principal and interest of monies secured by any mortgage made under the powers of this Act all the estate, property, right and interest by such mortgage vested in the mortgagee, his Heirs, Executors, Administrators or Assigns shall without any transfer or release or any other act or deed whatsoever immediately cease and determine.

LXVIII. And in order that no undue preference may be given in paying off any mortgages it is enacted, that whenever the said Commissioners shall be enabled to pay off one or more out of the number of the said mortgages, or a part of the money secured on any such mortgage, they shall decide the order in which such mortgages shall be paid off by lot or ballot, and shall cause a notice signed by their Clerk to be given to the person entitled to the money to be paid off pursuant to such lot or ballot, and such notice shall express the principal sum proposed to be paid off, and that the same will be paid together with the interest due thereon, at the office of the Clerk of the said Commissioners on a day and at an hour to be specified at the expiration of six months from the date of giving such notice.

LXIX. And it is enacted, that the said Commissioners may if they think proper fix a period for the repayment of the whole of the principal money borrowed on any one mortgage under the provisions of this Act with the interest thereon, and in such case the said Commissioners shall cause such period to be inserted in the mortgage deed, and upon the expiration of such period the said principal sum, together with the arrears of interest thereon, shall on demand be paid to the party entitled to receive such principal sum and interest, and if no other place of payment be inserted in such mortgage deed such principal and interest shall be payable at the office of the Clerk of the said Commissioners.

LXX. And

LXX. And it is enacted, that if no time be fixed in the mortgage deed for the repayment of the money so borrowed the party entitled to receive such money may at the expiration, or at any time after the expiration of twelve months from the date of such mortgage, demand payment of the principal sum thereby secured, with all arrears of interest upon giving six months previous notice for that purpose, and in the like case the said Commissioners may at any time pay off the money borrowed on giving the like notice, and every such notice shall be in writing or print; or partly in writing and partly in print, and if given by a mortgagee or creditor shall be delivered to the Clerk aforesaid or left at his office and if given by the said Commissioners shall be given either personally to such mortgagee or creditor, or left at his residence, or if his present residence be not known then at his last known place of abode, or if such mortgagee or creditor be unknown to the said Commissioners, or cannot be found after diligent inquiry and his last place of abode be unknown such notice shall be given by advertisement in the Calcutta Government Gazette, and once in each of three successive weeks in two of the Calcutta Newspapers.

LXXI. And it is enacted, that if the said Commissioners shall have given notice in terms of this Act of their intention to pay off any such mortgage then at the expiration of such notice all further interest shall cease to be payable on such mortgage unless demand of payment be made pursuant to such notice, and unless on such demand being duly made the said Commissioners shall fail to pay the principal and interest then due on such mortgage.

LXXII. And it is enacted, that it shall be lawful for any mortgagee or other person entitled to receive payment of the money secured by any such mortgage to enforce the payment of the principal money and interest due thereon by applying for the appointment of a Receiver in the manner hereinafter provided, but in order to authorize the appointment

of such Receiver the amount of money owing to the mortgagee or mortgagees, or creditor or creditors by whom the application is made shall not be less than Ten Thousand Rupees.

LXXIII. And it is enacted, that if within six months after the principal money or any interest owing upon any such mortgage has become payable and after demand thereof in writing the same be not paid the mortgagee or other creditor as aforesaid (without prejudice to his right to sue for such principal money, together with all arrears of interest in any competent Court or Courts of Law or Equity) may if his debt amount to the sum of Ten Thousand Rupees alone, or, if his debt does not amount to that sum, in conjunction with other mortgagees whose debts being so in arrears after demand as aforesaid shall, together with his amount to the said sum, require the appointment of a Receiver by an application to be made as hereinafter provided.

LXXIV. And it is enacted, that every application for a Receiver shall be made to one or more Justices of Her Majesty's Supreme Court of Judicature at Fort William in Bengal, and on any such application it shall be lawful for such Justice or Justices by order in writing after hearing the parties to appoint a fit and proper person to receive the whole or a competent part of the rates and assessments, and to apply the same to the payment of such interest or principal and interest as the case may be, together with all costs, including the charges of receiving the rates and assessments until the said principal and interest, together with all such costs and charges be fully paid, and upon such appointment being made all such rates and assessments as aforesaid shall be paid to and received by the person so appointed who is hereby empowered to give good and sufficient discharges for the same, and the money so to be received shall be so much money received by or to the use of the party to whom such interest or such principal and interest, as the case may be,

be, shall be then due, and on whose behalf such Receiver shall have been appointed, and after such interest and costs, or such principal, interest and costs have been so received, the power of such Receiver shall cease.

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## SCHEDULE A.

### Form of Mortgage Deed.

Mortgage No. Rupees By virtue of the Acts of the Legislative Council No. XVI. and No. XXII. of 1847. We the Commissioners appointed and acting under and by authority of the said Acts, in consideration of the sum of Co.'s Rupees paid to us by A. B. of do hereby assign unto the said A. B., his Executors, Administrators and Assigns, all the rates and sums of money arising in the Town of Calcutta by virtue of the said Acts, and all the estate, right, title and interest of the said Commissioners in the same. To hold unto the said A. B., his Executors, Administrators and Assigns until the sum of together with interest for the same at the rate of for every hundred Rupees by the year be satisfied (the principal sum to be repaid at the of years from the date hereof)—(*in case any certain* period be agreed upon for that purpose.)

Given under our common seal this day of in the year of our Lord and signed by us at our meeting on the said day.

A. B. *Commissioner.*
C. D. „
E. F. „

SCHEDULE B.

## ACT No. XXII. OF 1847.

### SCHEDULE B.

FORM OF TRANSFER OF MORTGAGE.

I, A. B., of in consideration of the sum of paid to mé by G. H. of do hereby transfer to the said G. H., his Executors, Administrators and Assigns a certain Mortgage Number made by the Commissioners appointed and acting under and by authority of Acts No. XVI. and No. XXII. of 1847, of the Legislative Council of India, bearing date the day of for securing the sum of Company's Rupees and interest (*or if such transfer be by indorsement* the within security) and all my right, estate and interest in and to the money thereby secured, and in and to the rates and property thereby assigned.

In witness whereof I have hereunto set my hand and seal this day of in the year of our Lord

A. B. (L. S.)

Calcutta. 1848.—Printed at the Bengal Military Orphan Press, by W. Ridsdale.

# ACT No. XXIII. OF 1847.

*Passed by the Right Hon'ble the Governor General of India in Council on the* 31*st of December*, 1847.

*An Act for the amendment of Act No. XXXI. of* 1838.

WHEREAS by Act No. XXXI. of 1838, Section XVII. it is enacted, that whosoever shall rob any person, or shall steal any property from the person of another, shall be liable, at the discretion of the Court, to be transported to such place as the Court shall direct for any term not exceeding fifteen years, *nor less than ten years*, or to be imprisoned for any term not exceeding three years:

It is hereby enacted, that so much of the above cited Section of the said Act as enacts that the term of transportation thereby limited *shall not be for less than ten years*, be repealed.

Calcutta, 1848.—Printed at the Bengal Military Orphan Press, by W. Ridsdale.

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